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Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of the Solicitor General



First Session, Thirty-Second Parliament
Wednesday, May 20, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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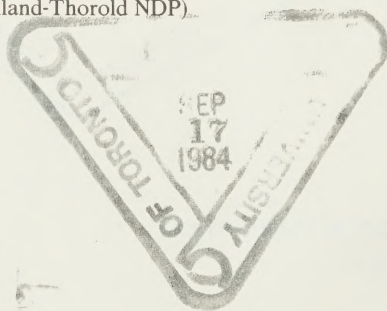
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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, May 20, 1981

The committee met at 10:12 a.m. in room No. 228.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL

Mr. Chairman: I will call the meeting to order. We have a quorum.

Pursuant to the order of the House of Friday, May 15, the committee has before it the estimates of the Ministry of the Solicitor General for consideration. We have 10 hours for consideration of these items.

Mr. Minister, do you have any opening remarks?

Hon. Mr. McMurtry: Yes, Mr. Chairman and colleagues. I have an opening statement, as is our custom.

It is quite evident that it has been a busy time for the Ministry of the Solicitor General in the months since this committee last met to discuss our spending estimates. The decade of the 1980s, with all its complexities, has certainly brought new challenges to those who serve us in the fields of law enforcement and public safety. I believe that they who serve have met those challenges in exemplary fashion and will continue to do so. Indeed, independent surveys and letters to the government and other public forums indicate that the vast majority of the citizens of this province have great confidence in our police officers and our firefighters.

We have budgeted in the ministry for \$225.3 million for the 1981-82 fiscal year. This is an increase of \$34.1 million or 17.8 per cent over last year. Much of that increase is accounted for in salary and benefit awards, plus inflationary increases, but there is one significant exception. That is an additional \$10 million to update and improve the Ontario Provincial Police communications network, which will be beneficial to all police forces in this province and will help to maintain the operating efficiency of the OPP.

As you know, the bulk of the funding from the Solicitor General's ministry goes towards maintaining the operations, management and support services of the force. That amounts to \$195.7 million for this fiscal year. I say again this year that we do not possess a great deal of financial flexibility in this time of government

restraint. Wage and salary benefits eat up most of the increased OPP budget, which is almost \$30 million higher than last year.

The OPP is the fourth largest deployed force in North America. There are currently 184 OPP detachments, six summer detachments and two subdetachments throughout Ontario from Kenora to Hawkesbury and from Windsor to Long Sault. The force is also responsible for policing the vast majority of the 175,000 square kilometres of Ontario waterways. Ontario continues to get distinguished and dedicated service from the OPP. The force has had to live with the restraint program. The fact that productivity has increased with the same complement over the past several years does great credit to all ranks.

In 1980, the force handled almost 95,000 actual nontraffic criminal occurrences, an increase of more than four per cent over 1979. While crimes against persons decreased by 1.1 per cent, crimes against property increased by almost five per cent. Last year, the OPP laid more than 62,000 charges under the Criminal Code and more than 361,000 charges under the Highway Traffic Act.

I am happy to report that the number of traffic accidents decreased by almost three per cent and fatal accidents decreased by just over one per cent. There was a decrease of 3.7 per cent in the number of accidents resulting in personal injury. The carnage on our highways is a matter of continuing concern to me, as I am sure it is to all of us. We had some success last year on holiday weekends, especially with increased patrols and surveillance and a public information program reminding the public to drive carefully. We will continue that program this summer in an effort to cut into the number of needless deaths and injuries resulting from traffic accidents.

We will be emphasizing that it is against the law not to buckle up in compliance with the seatbelt law. Since the law was enacted it has been a proven life saver; yet significant numbers of our citizens still have not got into the habit of buckling up for their own protection. It may well be that we will have to issue more summonses in place of warnings to those violators

who are stopped by our police officers. Buckling up is not only in the best interest of the traveller, it is in the best interests of all of us who have to foot the mounting medical bills for those who perhaps needlessly suffer serious injury in traffic accidents.

In the area of labour disputes, I am happy to report that those requiring OPP involvement are substantially less so far this year. There are those who continue to insinuate that officers of the OPP are being used as strikebreakers. This is simply a totally inaccurate statement. I have said before, and I will say again, that no one, least of all the officers themselves, likes to see the police intervene in strike situations. These interventions are costly, frustrating and occasionally risky to the officers involved. In most cases, the OPP officers are brought in only after a request from local municipal authorities and only where there is considered to be danger to the person and property of those involved in the dispute.

At this point, I would like to assure honourable members that the OPP continues to monitor the activities of the Ku Klux Klan in Ontario. One hesitates to say much about this odious little group because they bask in media attention. Their numbers in this province are small. None the less a number of police forces, including the OPP, are keeping an eye on the situation. If there is any breach of the law, we will take appropriate action.

As you know, the government is in the process of purchasing protective vests for the OPP as a result of a commitment made earlier this year. We have also offered to foot half the costs of this equipment for municipal and regional forces. The response so far has been gratifying. Indications are that vests will be supplied to about 9,600 officers from municipal and regional forces as well as 4,000 members of the OPP.

We are also providing funds for the purchase of special protective suits for OPP officers who specialize in bomb defusal in each of the 16 districts. The Ontario Police Commission has prepared tender specifications in consultation with a special committee of senior police officials and advisers. We expect that vests should be available to the rank-and-file policeman within the next few weeks.

For those on the committee who may not be as familiar with the OPC functions as some, I should say it has an inspectorate branch, provides administrative technology services, oversees criminal intelligence operations, provides

technical services and operates the Ontario Police College at Aylmer, where all the province's officers receive basic training. I would suggest that any members of this committee who have the time would find a visit well worth while.

Regarding the inspectorate branch, towards the end of 1980 a complete review was made with the objective of determining the focus of programs and services for the remainder of the decade. As a result, new strategies designed to increase and enhance contact and assistance to municipal police forces have been implemented.

Improved reporting systems will ensure that those matters requiring attention will be communicated to the Ontario Police Commission and, in turn, to the respective police force and governing authority. The OPP advisers in the inspectorate branch serve as the eyes and ears of the commission. They monitor the police community of Ontario and provide an essential interface between the municipal forces, their governing bodies and the Ontario Police Commission.

10:20 a.m.

In 1980, there were 269 visits to municipal forces by the inspectorate service officers. The majority of the visits were initiated by circumstances requiring the assistance and counselling services that are a major component of the inspectorate function.

Committee members should also know that it was a busy year for the office of the fire marshal. Top priority has been given to the development of a comprehensive fire code which will set uniform fire safety standards in existing buildings across Ontario. I have already introduced the necessary legislative amendments and have promised that the fire code will be ready by the end of the summer. This code was the prime recommendation of the coroner's jury in the tragic Inn on the Park fire. This inquest was perhaps the most exhaustive inquiry into a major hotel fire in the province's history.

I am also pleased to advise committee members that the government is prepared to act on another of the jury's recommendations, namely, that all hotel fire safety inspections be made the responsibility of the office of the fire marshal. Preliminary discussions are already under way between officials of my ministry and the Ministry of Consumer and Commercial Relations to bring about the necessary administrative changes and the transfer of personnel.

There are, of course, a number of other

important recommendations which are being very carefully studied, some of which I would expect to be also implemented in due course. We are also considering the imposition of stiffer penalties for infractions of fire safety regulations and the possibility of requiring our larger hotels to employ a full-time fire safety co-ordinator. I will be meeting later today with representatives of the hotel and motel industry to discuss these and other fire safety proposals.

Under our existing program, the fire marshal's office last year reviewed almost 800 plans of hotels which were undergoing major renovations, mostly to upgrade their fire safety standards. Also, last year the staff carried out 723 hotel inspections; 15 hotel owners were charged, 11 have been convicted, two cases were withdrawn and two are before the courts.

In the field of fire investigation, investigators look into four classes of fires and explosions in an effort to learn the cause and recommend measures to prevent recurrence. The categories are suspicious fires, fatal fires, large loss fires—that is over \$500,000—and gaseous explosions.

The arson figures are still disquieting, and I am sure would be of interest to members of the committee. The reported incidents were 3,965, which is less than a one per cent increase over 1979. But the dollar loss, more than \$50 million, is an increase of almost 19 per cent over the previous year, while the number of criminal charges laid, 745, represents a 29 per cent increase. Twenty-four per cent of the dollar loss by fire in this province is believed to be caused by arsonists.

In 1980, 260 people died in fires, the highest death rate since 1976 and 45 higher than in the previous year. Studies show that the heaviest death toll occurred during the colder months of the year when heating units are operating and home evacuation is more difficult due to the increased weatherproofing of windows. The highest number of deaths occurred around the weekend; the most hazardous time of day was the first few hours following bedtime when human vigilance is at its lowest.

I would also like to bring the members up to date on the work being done at our forensic science laboratory, which has deservedly become recognized by other jurisdictions as one of the finest in the world. As always, scientists have made a critical difference in helping police with many a difficult case facing them.

The average number of cases per technical staff member in 1980 was 108, and the average cost per case was \$386. There was a four per

cent increase in the number of cases received, and the number of cases reported was almost identical to 1979 since a saturation point has been reached.

Turning now to the coroner's office, members of the committee are only too well aware of the challenging time these dedicated public servants continue to experience. I have said before that the increased public spotlight on some inquests has tended to create a circus-like atmosphere in some instances. Also, the length of many inquests has been greatly extended, and so have the complexities. Despite all that, the centuries-old traditions of our coroner's jury system have stood up well and the results obtained have vindicated our faith in the good judgement of those panels of ordinary men and women making recommendations that will help prevent future deaths.

One only needs to look at the outstanding work done by the members of the Inn on the Park jury under the capable guidance of coroner Dr. Ross Bennett. Their thoughtful and useful recommendations are being studied by an interministerial committee and many will find their way into the rules of this province. The fact is that, despite some claims to the opposite, the government does pay attention to the recommendations made by coroners' juries. Last year, for instance, there were 287 inquests and more than 1,200 recommendations were made. Of these recommendations, 625, or more than half, already have been implemented.

Another of the areas of the coroner's office which is of particular importance to me, as I know it is to Dr. Cotnam, is the program for the donating of human organs to those in need. It is heartening to note in 1980 that 956 eyes were donated to the eye bank, which is the largest number received in one year since the bank was formed in 1955.

Also, last year more than 5,300 pituitary glands were donated. It is estimated that 10,000 glands are required annually to give adequate treatment to all of those people in Ontario with this type of pituitary difficulty. It is hoped that this deficit will be further reduced in 1981.

As Solicitor General, I am also chairman of the emergency planning committee of cabinet, and that is another area where the ministry has been active. Since we last met, the province sponsored a highly successful conference on emergency preparedness, which was attended by 800 delegates from around the world. Most of the municipalities in the province sent delegates, and a committee of municipal emergency

planners, set up to advise on the agenda, decided to stay together to continue to liaise with the province on emergency planning matters.

Many municipalities have indicated they would like legislation spelling out roles and powers during emergencies. It is, however, a complex matter. Accordingly, it is my intention to release later this spring a discussion paper on emergency planning proposals. This will be circulated to all municipalities in the province as well as to all our MPPs. We will welcome and study proposals and suggestions from all sources before we present any legislation. I might add that General C. L. Kirby, our emergency planning co-ordinator, and his staff have already had an extensive liaison with those involved in emergency planning on a municipal level throughout the province.

Also on the subject of emergency preparedness, some members will recall that following the Mississauga derailment the government commissioned the Institute for Environmental Studies at the University of Toronto to conduct an intensive, independent study of all aspects of the emergency. The study should be complete this summer, and we will make it public at that time.

One report which we have in circulation already is that of Judge John Greenwood on the police use of firearms. All members of the Legislature have received a copy. It has also been circulated to police officials and governing authorities around the province. It is a thoughtful analysis of the use of firearms and the training of officers, bearing in mind the maximum standards of safety for the officers and the general public.

We are asking for input from the police and public alike. Undoubtedly, at least some of the judge's recommendations will be utilized in order to ensure high standards. I hope any members of the committee who have thoughts on this sensitive matter will discuss them with me during these estimates.

Now for the legislation setting out a new procedure for dealing with complaints against police in Metropolitan Toronto. This legislation, which was introduced the other day, is eagerly awaited by the boroughs of Metro. The mayors, as well as the police chief and representatives of the police commission and association, were all consulted extensively while the bill was being drafted.

Committee members know, of course, that the legislation affects Metropolitan Toronto

only. It is not our intention to impose similar legislation on any other community, although the Toronto project could serve as a model for other municipalities if they should choose to go that route somewhere down the line.

Mr. Chairman, these are some of the activities of the ministry since we last met. I know there may be a number of other areas of interest to members of the committee. I welcome any suggestions they may have as to how we might carry out the vital mandate of this ministry more effectively. I would now like to open our estimates for discussion by the honourable members.

10:30 a.m.

Mr. Chairman: The member for Huron-Bruce will now respond for the official opposition.

Mr. Elston: Mr. Chairman, as I am a new member, I thought a good place to start my review of the Ministry of the Solicitor General was to go over the Hansard reports of previous estimates of the ministry in order to familiarize myself with the operations. I do not want to cast aspersions on the good efforts of the minister so early in our relationship, but it is fitting to note that many grievances of past opposition critics need to be addressed once again this morning.

Some of these issues still remain unresolved by the Solicitor General. I do not know whether I can be any more persuasive than have the long list of speakers who have previously used this forum to raise these issues, but I do wish to put the Solicitor General on notice that these matters continue to be of concern to me and to members of my caucus.

To begin with, let me point out once again the continuing incongruity of having the same person occupy the post of Attorney General and Solicitor General. Let us look at the history of the present office of the Solicitor General. It is a fairly new creation, having been established in 1972. The Solicitor General was made a member of the executive council and was given certain powers of administration over a number of public acts, including the Police Act and the Coroner's Act among others.

On the Attorney General side, the minister is responsible for supervision of the crown attorneys, the court system and the protection of the public interest in the administration of justice.

In this whole ball of wax that we call the system of administration of justice, one can see that there are two lines of authority, one running through the Solicitor General and the

other through the Attorney General. In theory, it would seem to me that in certain circumstances components of each of these ministries would act as a check on the other.

For instance, we have a clear demarcation between the person who makes an arrest, who is the police officer, and the lawyer who prosecutes, that is, the crown attorney. Moreover, the crown attorney is not directed by the police; he is an officer of the court. Surely the theory that each ministry acts as a check for the other falls apart when the same person acts as minister in each instance. The potential for schizophrenia is tremendous.

The Solicitor General and the Attorney General, I might add, has three standard responses to this criticism. The first is that eight sister provinces at present have the functions combined under one ministry and, therefore, under one person. The second is that when the split was made in 1972 the opposition parties voted against it. The third is that should a conflict of interest arise, the minister would recommend a split.

With regard to the first argument, I should point out that it was this minister's government which introduced the split. Certainly, it could not have been in the minds of anyone when these functions were split and two separate ministries created that one individual would stand astride these two posts.

As for the second argument, it is quite clear that in the last few years the various components of our system of administration of justice, that is, the police, the coroners, the crown attorneys and so on, have been the subject of intense and critical scrutiny in the public limelight. We have created separate ministries and separate lines of jurisdiction and authority to ensure that any contentious issues be resolved in this framework of checks and balances in order to avoid the possibility of arbitrary decisions or the semblance of arbitrary decisions.

That brings us to the third point, the argument about conflict of interest. Regardless of when the time may come that the Attorney General and the Solicitor General feels that a conflict of interest situation has arisen, the point is that the potential is there. The Attorney General has admitted as much.

Hon. Mr. McMurtry: I do not think that is accurate. I do not think I have ever suggested there would be a conflict of interest.

Mr. Elston: We should make every effort to minimize any apparent apprehension of conflict in any event.

Turning to the question of funding for police, which is an issue that has been brought to the attention of the Solicitor General time and again, I would like to raise, first, the matter of the disparity between the police funding grants given to regional and nonregional police forces. These grants, which had been set since 1976 at \$10 per capita for communities served by nonregional forces and \$15 per capita for communities served by regional forces, were raised about the time of the calling of the election to \$12 per capita for nonregional forces and \$17 per capita for regional forces. At its maximum, that is a five per cent increase per annum.

I know the Solicitor General will say again that this is a matter to be raised with the Ministry of Intergovernmental Affairs and the Ministry of Treasury and Economics as these grants do not come through, nor are determined by, the Ministry of the Solicitor General. That may well be true, and the Solicitor General himself may complain about the paucity of these grants. However, the fact remains that the level of these grants has a serious impact on the level of services provided by the police forces of this province, particularly by nonregional forces which receive the short end of the stick in this structure.

This is certainly something that his ministry is examining. The Deputy Solicitor General in his appearance before public accounts in the summer of 1980, had the following to say about the discrepancy: "I am seeking to have established a study of the reason and justification for what appear to me to be obvious inequities. I have been given to understand that the study is starting, but I don't think anything has happened as yet."

Could the minister inform us whether anything has happened yet? Has there been a study and, if so, what are the results? Could he provide us with a reason and justification for the obvious inequity?

The minister has also said: "These police grants, which are just another municipal grant, cannot be separated out from all the provincial-municipal funding, but are part of a total package. Therefore, when one is looking at grants, even though they may be called police grants to municipalities or regional municipalities, one has to look at the total provincial funding." That excerpt came from the estimates of the Solicitor General, November 13, 1980.

It seems to me that if the Solicitor General is going to rely on such an argument he should provide us with the data; that is, to what extent

are resource equalization, per capita general, per capita density and transitional and special assistance grants, or any other grants, being used to defray the costs of policing? To what extent are these being used to narrow the discrepancy in the funding gap between regional and nonregional forces? To what extent are other municipal fiscal needs displaced as governing authorities scramble to find money for their underfunded police forces?

I would like to speak to a matter of police funding that is within the purview of the Solicitor General, namely, with regard to the Ontario Provincial Police. As we all know, certain municipalities for one reason or another, probably financial, have asked the OPP to undertake the policing function in their communities. By December 1979, 19 communities had made such a request. By October 1980, 29 communities had made such a request. The OPP had turned down these requests; largely, I imagine, because of the cost factor.

Let us address this cost question again. The minister is familiar with the report of a special consultant to the minister, Emil Pukacz, which was completed in October 1978. Among other things, Mr. Pukacz studied municipalities which already receive some form of OPP policing. One would expect that each community should bear some portion of its own policing costs whether it is provided by a local force, a regional force or the OPP. In those cases where municipalities had contracted the OPP to do the policing, Mr. Pukacz found that a majority of the municipalities had been charged under what could be considered to be the fair cost of the service. Mr. Pukacz estimated this subsidy to be \$1.5 million.

What was more questionable was the practice of providing free policing to certain communities when other communities are required to bear some portion of the cost of policing. Mr. Pukacz estimated this subsidy to be \$56.8 million in 1978. What really must be considered astonishing is that some municipalities were receiving per capita police grants for portions of their population which were at the same time receiving free police services from the OPP.

Last year the Deputy Solicitor General said before the standing committee on public accounts that he found this situation personally embarrassing. I have to ask the minister if he would care to be so frank or if he can provide us with an excuse for this inequitable situation. The point is that there are serious inequities between the level of contribution we expect different

communities to make towards their policing costs. Does this concern the minister? What is he doing to alleviate the problem?

Let us talk about increasing the use of civilians on police forces for non-law-enforcement activities. In 1976, the OPP had a complement of 4,045 uniformed personnel and 1,161 civilians. Five years later the figures were 3,997 uniformed police officers and 1,173 civilians. In five years, the force had a net decrease in uniformed personnel of 48 and a net increase of civilians of 12. This is for a force of over 5,000.

Could the minister advise us whether this is the extent of civilianization that will occur in the OPP? If not, what fields remain where civilians could be used to offset the rising costs of policing, and why has there been no movement to place civilians in these areas?

10:40 a.m.

I know one response which the minister will give. He gave it last year. He said: "One must appreciate that a number of these jobs which are undoubtedly less demanding and require less than fully trained people are, quite frankly, carried on by older police officers who have, through no fault of their own, become somewhat infirm perhaps, who may have some chronic illness which, while not sufficient to require them to retire, in fairness to them, does require they do lighter tasks, less responsible tasks."

I appreciate the minister's humanistic concerns but, again, I am concerned by his lack of documentation. Could he provide us with a breakdown as to the type of functions undertaken by civilians and uniformed personnel within the OPP? Which functions have been targeted by his planners for civilianization and how many jobs which could be performed by civilians are presently undertaken by uniformed personnel not in a capacity to undertake full active law enforcement duties?

I began this dissertation by pointing out that up until October 1980, 29 communities had requested the OPP to take over the policing function in their communities. I have raised several examples of hidden subsidies within the OPP structure that could be used to offset this expansion of OPP services. Could the minister indicate how many of these 29 communities have received OPP policing and whether any more communities since October 1980 have requested OPP services? Could he provide us with an estimate as to how much it would cost to extend OPP services to all these communities? Could he explain why he cannot reduce some of

these hidden subsidies so as to free some OPP resources so that the requests of these communities could be met?

I would also like to engage the Solicitor General on the topic of high-speed police chases. I appreciate that this issue has been raised many times in the Legislature and that my leader and the Solicitor General have exchanged a few thoughts on the matter. Unfortunately, the question period format is not the best setting in which to discuss the policy.

Let me attempt in the more conversational form of this committee to put our concerns to the Solicitor General. We quite understand that guidelines exist that ostensibly lay down some policy with regard to high-speed police pursuits. We have consistently asked the Solicitor General that these guidelines be made stricter. His response is that at the bottom line the decision about when to pursue, when not to pursue or when to call off a pursuit is up to the individual police officer. The general impression he leaves us is, what else can be done?

I would very much appreciate it if the Solicitor General could undertake to table tomorrow in this committee all the studies currently in the hands of either the minister's office or the Ontario Police Commission on the subject of high-speed police chases. I do not think that an unreasonable request. You have library facilities, and I am sure in 24 hours you can produce for this committee's perusal the studies in your possession on high-speed chases.

What would be particularly revealing, if I am be allowed to anticipate what some of these studies say, would be a review of American studies on this subject. In an extensive 200-page study of the subject, prepared by the US Department of Transportation, it is shown that there are basically three policy models that American police forces use to guide their officers on the problem on high-speed pursuits. They are as follows:

Type one, officer judgement model: All basic decisions to initiate, conduct or terminate hot pursuit are made by the street officer. His decisions are subject to internal review and possible legal action, depending on due care provisions.

Type two, restrictive policy model: In these agencies there are certain restrictions on the officer's decision to initiate, conduct or terminate a pursuit; for example, only pursue for felonies, no speed above 20 miles per hour over posted limits, stop at intersections, et cetera.

Type three, discourages pursuit: These poli-

cies caution or discourage the officer from engaging in hot pursuit; however, none of the agencies expressly forbids pursuit if there is no other choice or if it is an extreme emergency.

It is quite apparent that the Ontario Police Commission's suggested guidelines fall within the officer judgement category, the least restrictive of the three models in use in the United States. It is interesting to read excerpts from some of the US guidelines that came to our attention.

Consider the following comment from Wichita, Kansas police department: "We have always attempted to discourage high-speed chases by members of the department. High-speed chases endanger the lives of the officers and also the citizens who may be innocent bystanders. In many instances, the person being pursued will continue to run as long as he is being pursued or until he is involved in an accident. We do discourage our officers from becoming involved in chases. The resulting charges are normally misdemeanour offences, and it is not worth the risk of personal injury since the person frequently can be arrested at a later time."

Here is another excerpt from the Boston police department: "Using an automobile without the authority of the owner is simply a misdemeanour except where the intent to deprive the owner permanently of possession can be proved. Therefore, 95 per cent of such cases are misdemeanours in which juveniles are involved and our officers are instructed accordingly. High-speed chases are countenanced only to the extent of the crime involved, for example, murder, armed robbery, et cetera. Even under such circumstances our men are instructed to pursue the vehicle with the safety of the public uppermost in mind."

Here is yet another from the New Haven, Connecticut police department: "High-speed chases should not be engaged in unless absolutely necessary. In most cases, suspicious vehicles should be reported to CCB and followed without a chase in excess of the speed limit. Motor vehicle violations and most misdemeanours will never be considered as justification for a high-speed chase, especially ones that possibly endanger innocent lives. Personnel will be held accountable for any at-fault accident they become involved in."

Here is another excerpt from the Arkansas state police: "Automobile chases at high speeds are extremely dangerous to the chaser, the chased and the innocent public. They are to be avoided unless, in the opinion of the officer, the

chased presents such a clear menace as to offset the danger of two or more speeding automobiles."

A second excerpt from this same report states: "This is a judgement decision for the officer, similar in many respects to the problem of when to use a firearm. For this reason, high-speed chases are discouraged, but not prohibited. They are sometimes necessary, but not often. It is highly unlikely that you will be asked why you did not chase a speeder. There is always tomorrow."

I think there is no doubt there is a radical difference in the views of police chases these police departments have as opposed to those advocated by the Ontario Police Commission. These are police forces that face on the whole the same, if not worse, dangers on the road as our own police do in Ontario; yet they have adopted an entirely different attitude on how to approach the problem.

What is sad is that in response to my leader's suggestion that we adopt the restrictive model, we have had to listen to the following sorts of comments from the Solicitor General: "To do as the Leader of the Opposition suggests and ban all police pursuits, except in the rarest circumstances, would be irresponsible and an open invitation to all lawbreakers to speed away from a police officer attempting to apprehend them.

"I have no intention of sending them"—that is, the police—"out on patrol with one hand tied behind their backs and asking them to do their duty only when the lawbreaker is travelling within the speed limit."

There are other studies available from the United States and, if the Solicitor General is not aware of them, I trust that he will make himself familiar with them so that we could have a more balanced review of the present Ontario policy concerning police chases. I hope, as well, that with such a background he will not treat the suggestions of the opposition parties with such disdain.

Another matter I would like to raise with the Solicitor General is the question of organized crime in Ontario. I am disturbed to find every so often references made, explicitly or implicitly, in the press or otherwise, concerning the activities of organized crime in Ontario. One hears of various loan-sharking operations, fraudulent land transactions, arson, protection rackets and so on; activities which, because of their nature, may signal the presence of organized crime elements.

Just recently, during the course of the Astra/Re-Mor inquiry conducted by this committee—the unfinished inquiry, I might add—we heard of organized crime connections. The recently uncovered plot to overthrow the government of Dominica apparently had, according to press accounts, backing from mob money originating in Toronto. Just this morning in the *Globe and Mail* I read where a hit man had been hired in Toronto to knock off land speculator Paul Volpe, a businessman who was named in the CBC Connections series. These are matters which have already been reported, and I only report them as illustrations rather than as specific concerns.

I wonder if the Solicitor General could comment, in general terms of course, on his perception of the problem. How extensive is it? Is it growing in certain areas, and are there certain types of crime? What are we doing to combat it? Have more resources been allocated to the problem?

I note that in my briefing book under the auspices of the Ontario Police Commission there is a branch called criminal intelligence. One of its stated functions is "to keep the public aware of the existence of organized crime." I would be very interested to know how and where the branch does this and what does it say? If the minister cannot answer now, I trust he can undertake to give a response when vote 1703 comes up.

10:50 a.m.

Another matter I would like to address is Bill 68, the Metropolitan Toronto Police Force Complaints Project Act. I do not think estimates are the place to discuss the contents of the bill; however, I do wish to ask that the Solicitor General give his undertaking this bill will go to committee to be discussed and that all groups and individuals that have an interest in this piece of legislation be given an opportunity to make their views known to the committee. As the Solicitor General knows far better than I, this has been a controversial issue in Metropolitan Toronto for many years now. It would certainly be inappropriate if at this stage the numerous individuals who have shown an interest in this matter were not given an opportunity to comment.

I now wish to turn my attention to the question of dual jurisdiction with respect to the hotel fire safety investigations. As the system now stands, licensed hotels are inspected by Liquor Licence Board of Ontario officials who have four to five months of on-the-job training,

while unlicensed hotels are inspected by an official of the Ontario fire marshal who has five years of fire prevention experience with the municipal fire department and six months of field work. I was pleased to hear that the government is considering bringing all inspections under the auspices of the fire marshal. That certainly will relieve some of our concerns which were initially raised due to the recent Inn on the Park fire and the two preceding fires in Hamilton and in Paris, Ontario.

I would also like to comment for a minute on those recommendations. I know that the minister has given us several statistics in his opening statement concerning the implementation of the recommendations from coroners' reports. I would like to mention it is unfortunate that some of these recommendations appear in major form to have been unrecognized as a result of the Hamilton fire inquest and as a result of the Paris inquest. They have now been made again in the Inn on the Park inquest, namely, the unifying of inspection under the auspices of the Ontario fire marshal and implementation of several safety features in the hotel areas. I trust that the minister will move very quickly to implement the Ontario fire code, as he says he will, and will make every commitment to speedily arrange for the fire marshal to take over all inspections in the hotel industry.

With that, I think I will conclude my remarks for the time being. Thank you very much.

Mr. Breagh: Mr. Chairman, I want to spend a little time this morning because the format here allows us some latitude. I want to begin by saying I am relatively pleased that the budget for the Solicitor General's ministry is beginning now to show some growth. I know it has been a concern of the minister and, more important, has been a concern of those people who are working in the field that this particular ministry has really felt the restraint program.

The ministry has had some difficulty in the last few years in responding to obvious needs in the community. To quote some examples, there have been matters raised here in the last couple of years about OPP officers patrolling in rather remote rural areas of the province by themselves when their radio equipment is not as sophisticated as it might be. In fact, pleas were made by the member for Algoma (Mr. Wildman) more than a year ago about what happens to an OPP officer who has to cope with even a simple traffic accident in the middle of an area where perhaps the closest community is 60 or 70 miles away, where he is totally on his own, where his

radio equipment is not quite up to snuff, where there is no assistance available and it is not very likely that an ordinary citizen will arrive at that scene perhaps until the next morning.

Even if there was no criminal activity involved but a simple traffic accident occurred, it could well be—and it has happened—that a police officer could be stranded in the middle of a snowdrift almost overnight in some of the remotest parts of Ontario with no assistance forthcoming.

That appears to me to have been, at that time, a ridiculous situation to put a police officer in, to put him at risk when risk was not necessary. But the response at that time, if I recall it correctly, was pretty straightforward. It would not be a bad idea to have two-man patrol cars in remote areas, but there was not enough money in the budget. The restraint program was there and there was not going to be a massive change in the communications systems which they own. I do at least see mention of that in the introductory remarks by the minister and some change in the allocations of funding and personnel for the OPP.

The tragedy, as with a lot of things around here, is that something rather atrocious must happen, it seems, before the government is prepared to reallocate its priorities and to put more money where money is needed. For many of us who have friends who are police officers and who listen constantly to their complaints, it seems to be an undeniable fact that many of our officers are at risk unnecessarily.

If there is a solution to that, the solution, as always, turns out to be money and allocation of resources. I appreciate that the Solicitor General does not have a free hand in the cabinet, that he must go in there and compete with all the other ministries there to attempt to get allocations of moneys and must compare those needs to those expressed by other ministers.

Whether it is communications systems, whether it is the changing of the allocations of personnel or the supply of vests to police officers, all of those things seem to have at least been acknowledged by the minister in the last little while. Perhaps that does take an election or two; most often it takes some tragic event which gets some widespread publicity.

None the less, I see some movement there and I am pleased that the minister is finally responding to that particular need. I wish that sometime we could get to the point where it does not take either an election or the death of a police officer before a response is forthcoming.

I want to try to poke and probe a little bit because I think that is my job as an opposition critic. Obviously, in every chain of command at some time, someone makes a decision about priorities. Whether it is about spending, as I have just talked about, or whether it is the decision of the police forces to take some action, somebody must do that.

I spent some time in the House the other day asking the Solicitor General, who also happens to be our Attorney General, to respond to the allegations which have been made concerning the raids on the bathhouses here in Toronto. I read Hansard on that discussion and noticed that the minister quite specifically answered as Attorney General, not as Solicitor General, and that his references were to his officers and his staff as Attorney General. Sometime in the process of this particular set of estimates I am going to ask the minister the same question as Solicitor General, and I would like him to respond in exactly the same way. I would like to see a detailed response because I want to make sure he did not just switch hats on that day.

Hon. Mr. McMurtry: I can assist you by announcing that the same answer would be forthcoming.

Mr. Breaugh: Okay. We will pursue that a little bit more because, setting aside all of the morality of that issue, I find I have some difficulty figuring out exactly why, all of a sudden, days before a provincial election comes up, charges are made in something which has been monitored for quite some lengthy period of time. I notice, for example, in going through the statistics you gave us as backup material for the estimates, that in the last calendar year, if I remember correctly off the top of my head, there was only one arrest in Ontario by the OPP for prostitution.

If that is the level of activity of the Ontario Provincial Police force in the entire province in that particular aspect, I have a little difficulty balancing exactly how come, on the eve of a provincial election, we allocate a couple of hundred police officers to go into another type of morality charge of sexual activity. The timing certainly is suspect, to put it politely. I cannot figure out how this coincidence occurred so neatly just prior to an election.

11 a.m.

I have difficulty figuring out precisely why all that manpower was involved. If there had been a long series of raids on the bathhouses as the police gathered evidence, decided to conduct

the raids and begin prosecutions, one would say this was just one part of an ongoing pattern. But for a long period of time there was virtually no activity which the public could see. Then, all of a sudden, on one night four of them were hit with full police complement. There was an air of show business about that. I would like a further explanation why the police proceeded in that way and to have some understanding of the role that the Solicitor General's ministry played.

Not much more than a year ago the topic of the day was prostitution on Yonge Street and the cleaning up of Yonge Street. I remember the role that the Solicitor General and the Attorney General played in that. There was a good deal of discussion in the media that there was going to be a crusade, and in fact that is what it was.

The minister was in the forefront of that crusade. He managed to take those activities off Yonge Street and move them about two blocks east. For some reason, that seems to have solved the problem. I know a little about geography, but I am not sure why what is all right on Jarvis Street is not all right on Yonge Street. I really do not fathom how we resolved that problem by moving it to another location.

In other areas of the world they have decided that the long-standing European tradition of a red light district is acceptable. In some American states they have designated sin areas on the theory, I guess, of providing the place if people insist on it so that the rest of us will not be bothered by it. I do not see it to be quite as neat as the minister put it in the House the other day. I sense the Roy McMurtry touch is there clearly. I would like to have a further statement from the minister just to give him a full opportunity to clear the air.

My next point has the same theme. It is a delicate situation for the Solicitor General to have to play a role in directing police operations and yet not play a role. It is extremely complicated when one is not only the Solicitor General but also the Attorney General. The balance that supposedly exists in a judicial system becomes awkward to maintain when one has a foot on either end of the scale. The minister is not just the crown attorney's office deciding, "We will proceed with criminal charges," but is out there investigating the activity as well.

In addition, there is the political process; there is no getting around that. There is nothing wrong with a minister of the crown wanting to have his or her name up front. For a variety of political and other reasons, it is nice to be seen as a fighter of sin and degradation, a hero and

someone who supports his local police officer. Those are all good things, and I would not deny anyone the right to them.

Then there is the matter of the Canadian Union of Public Employees workers, particularly the hospital workers. That puzzles me. Normally, following the resolution of any kind of labour strife, whether a strike is involved or not, all parties make an attempt to make peace, to put behind them all the animosity which is created in such situations and to settle down. I do not understand why there is a continuing investigation into the activities of the hospital workers. Again, I look for patterns; for example, if there had been an investigation into the other hospital strikes, the two by the residents and interns, who also picketed. It may not be as clear that that was an illegal act.

Hon. Mr. McMurtry: It was very clear that one was a legal strike and one was not.

Mr. Breagh: That is interesting because it goes to the heart of the thing. I would have thought that if one is talking about essential services in a hospital a physician might be construed as essential, but I have a little difficulty in establishing that the fellow who mops the floor is essential. If we were to rate them, I would say that the surgeon who cuts one open is perhaps a little more essential than the fellow who mops the floor.

That may not be true. My reading of the relevant acts does not make it too clear who is covered and who is not. I did notice that when the interns and residents went out on strike, they carried picket signs. I saw them all; I was there. The minister did not even investigate my being on their picket line. I felt a little insulted about that. He did not even try to get an injunction to stop them from going on strike.

Then in February, in the middle of winter, the hospital workers went out. Then injunctions were flying. Off they go court, and the OPP is out investigating. They are paying for my picture from the Oshawa Times. The whole paper could be had for a quarter, but \$6.80 was paid for my picture. I would have given it for nothing.

I am comparing the two instances in an attempt to establish a pattern. If all things were normal, the pattern should be relatively the same whenever there is a disruption in a hospital. I would have anticipated that you would have sought an injunction to stop the disruption.

Hon. Mr. McMurtry: Even though it was legal? That is a very curious approach to the

law, but not surprising from your party. You make up the law as you go along. That is a very useful approach.

Mr. Breagh: That is interesting. You are moving very nicely here. We could save ourselves a lot of money. We do not need a court system. You are deciding what is legal.

Hon. Mr. McMurtry: Come the revolution, it will be Michael Breagh standing up there and saying, "You are guilty. You are not guilty." It may depend on the colour of one's eyes. "Never mind the law. We know what is good for you."

Mr. Breagh: Prior to the revolution, it is Roy McMurtry doing that.

Hon. Mr. McMurtry: According to the law laid down by the Legislature of this province.

Mr. Breagh: I always thought it was funny your going to court to get your injunction. Why didn't you just do it? Why did you bother with the court system? Why did you let the lawyers mess around? If you have that power, why didn't you do it?

Hon. Mr. McMurtry: I suggest for a whole bunch of reasons you should be getting a little better legal advice than you have been getting in the past.

Mr. Breagh: I have never had a need for legal advice. Perhaps that is my problem.

Hon. Mr. McMurtry: If you continue to go on the way you are, you will never know.

Mr. Breagh: What I am trying to get to is exactly where the dividing lines are. I know it is a sensitive and a delicate thing and that you are not much given to this kind of a discussion, but I would like to have in the course of these estimates a bit of a discussion about exactly where you, personally, see those division points, exactly where the checks and balances in the system are and exactly how you determine them.

I am having some difficulty establishing exactly what your role is and exactly what makes a strike in a hospital by hospital workers different from a strike in a hospital by physicians. There has been a lot of acrimony in the last few years—I notice you mentioned it in your opening statement—about the role of police officers in the course of any labour dispute.

That has always existed. I understand from the police officers I have talked to that it is what they hate most of all because it is not clear to them exactly what their role is; it changes from day to day. It is an unpleasant place for a police officer to be. I know in my own community that

very often police officers have friends among the strikers. When there is a labour dispute, they are out there doing something the community in which they live does not understand.

If they are chasing those who are knocking over Becker's milk stores, the community approves. But a police officer is in an awful position in the middle of a labour dispute. The law seems relatively clear about what an officer must do, but the fact remains that in a strike he goes among his peers and does something which to them is unacceptable. For most of his working life he is protecting people. He is enforcing laws which his peers agree with for the most part. Nobody likes to get speeding tickets but, by and large, the community believes that speeding is an unhealthy and unsafe thing to do.

We must clarify that situation. I am not sure you care a great deal about this, but I think it is true that most of organized labour feels that police forces in Ontario in a strike situation play an unfair role. We have tried in private members' bills and in debates and committees to change that.

As you are aware, it becomes a very expensive operation and may, in part, add to some of your financial difficulties. In the Boise Cascade strike, for example, it was difficult to explain to the community why all these OPP officers were in there, occupying the Holiday Inn. There seemed to be in that near crisis situation no end to the cost. There certainly was no restraint program at work there.

11:10 a.m.

Hon. Mr. McMurtry: I guess when school children on buses are facing spikes in the roadway, if you were a parent in that area, you would like to see the OPP there—and explosions. It is interesting the extent to which police are criticized in the abstract. But when there is bad trouble around, we are awfully happy to see them. And there was bad trouble around there. You know that.

Mr. Breagh: I agree with that.

Mr. Wildman: There was also a four-foot woman involved in an assault on the picket line.

Mr. Breagh: What I am trying to generate here is that, because there is relative calm on the scene now, we may be able in that calm to establish some better definition, some better ground rules that everyone clearly understands about the role that you, as Solicitor General, expect your officers to play; and we may get some understanding in the labour community as to what they are up against here.

I have been on some picket lines where there have been police officers involved in incidents. I saw things that I thought were improper being done by officers whom I knew personally, by a police force that I respect immensely. It has bothered me for some time. In many respects, it is a very difficult situation to see your friends who are involved in a labour strike and your friends who are involved in a police action in conflict and to try to sort out who is right or wrong in that situation.

I too have seen police officers who were personal friends of mine roll up in the morning to a picket line with the paddy wagons, four or five strong. I have seen them with their cameras and their videotape equipment on the roofs of surrounding buildings. I have seen them do things that I know in most circumstances those officers would not have wanted to do and probably would not have done.

We do need to spend some time trying to pull those roles apart and in a moment of calm establish on both sides a little better understanding of that issue. I am not suggesting that is going to be easy for anyone to do, but I do think it needs to be done.

On the other side of the issue is this whole business about the Ku Klux Klan. I have agreed for some period of time that I would have taken much the same position you did. I do not like them, but it is difficult for anyone to say, "I don't like that group over there, so we're going to throw them in jail." I would not agree with that in the first instance.

By and large, I would agree with the consensus among police officers that the Klan is a relatively small group of people and the price we pay in a democracy is sometimes some matter of inconvenience. There will be someone we disagree with violently who will be out preaching on a street corner or handing out pamphlets or dressing up in funny costumes, and away they go.

It seems to me that the dividing point in a free society is that any kook, nut, bum, revolutionary—whatever—can say what he wants to say. In many ways, they can demonstrate and can do a lot of things. We are a little fuzzy around the edges about what kind of literature they can hand out or whether they can run answering services with hate messages on them. That is a difficult area to get into. But when it was clear that known members of the Klan here in Toronto participated in something I never thought would happen, that is, bizarre as it

sounds, an unsuccessful attempt to overthrow a government in a small Caribbean country, I guess that was my personal turning point.

I do not mind the Klan saying whatever they want to say or wearing their bed sheets or whatever as long as they do not do it on my front lawn. But it is another matter when they participated in the unheard of, when they tried to put together that revolution here in Toronto. And, according to media reports which I have seen, they were relatively successful, at least in the organizational stage. I am wondering where was the monitoring of that situation.

I know that since the *Globe and Mail* story has been published your investigations branch is hot and heavy on the trail of the Klan, but it is an interesting question. I heard an FBI agent from New Orleans say they could not believe that this package was put together—the money, the weapons, the training and some of the personnel at least—here in Toronto. According to their information, the Metropolitan police, the OPP and the RCMP at that time were not even monitoring the situation.

It may be, again, that is something we do not know how to deal with in Canada. I would be the first to admit, and I think many others would as well, that the only experience we really have in that whole kind of clandestine investigation area was the RCMP in Quebec and, as the McDonald commission kind of established, the RCMP did not exactly distinguish itself in that process.

It is unclear, for example, when undercover police officers are members of a group which is attempting to do sublegal acts, where the police officer stops being an officer and continues being someone who is working undercover when he gets into illegal acts in particular. There is an awkwardness about that.

The CIA and a number of other secret service agencies around the world seem to have resolved that problem, but we have not. I know that we do not have the personnel in the OPP to really get into that. We do have some who are designated to do that, but I do not think anyone is pretending that they are as sophisticated, as well-funded and as well-trained as, say, the CIA or even the RCMP. It seems there is some slippage in our police system.

Hon. Mr. McMurtry: I think they are better.

Mr. Breaugh: That surprises me a little, but not much.

At any rate, that seems to be another area which is deserving of some investigation for an establishment of priorities and from the point of

view of personnel who are involved in it and the minister responsible. Can we attempt to sort that out because the unfortunate fact again appears to have occurred that the reality is that someone did put together a revolution business here in Toronto and you, the Metro Toronto police and the RCMP knew nothing about it? You were not monitoring the situation. It certainly is true that after the stories broke in the media the monitoring process began. I understand that a rather intensive investigation is now under way, but that of course is after the fact.

Those are areas where I think in three major pieces of business there needs to be some clarification, some response from the minister about his role personally in it and the general guidelines that ought to apply and the ground rules that will apply in the future.

Again, tragedy seems to evoke a response. For a number of years the changes in the fire code kind of bubbled along. A number of large-scale meetings were held. A lot of studies went on and a lot of discussion went on. It now appears that the fire code will proceed.

Again in another area, that of inspection, I followed your comments on that. I followed your comments in the House where you said: "Everything is okay. It does not matter that sometimes these fire inspections are carried out by the liquor licensing people and sometimes they are carried out by people from the fire marshal's office."

Most of us who have studied this area a little bit understand it. There are some real distinctions about training and about on-the-job routines they go through. If one has spent some time discussing it with people who run hotels and restaurants and taverns and what not, one knows there is a fair amount of confusion in the minds of those people as to precisely who is responsible for telling them what to do. Is it the liquor board inspector? Is it the local fire department? Is it the fire marshal's office? There is some confusion there.

I notice that you have changed your stance a little bit. I remember your first response as being, "Relatively, everything is okay. Everyone is well-prepared to do this kind of stuff. It really is not a problem." Subsequently, I notice you have kind of changed your position on that a little bit. You did say, "Maybe there should be one level of inspection; maybe it should be kind of consolidated." But you need money for doing that and perhaps you have not been able to get it through the cabinet.

I think maybe we could assist you in that

process. I would be more than happy to because I believe that that is a serious priority and one which throughout all of North America was not really paid that much attention. It has not had the high priority it should have. I think we have certainly had enough tragedies now that even your government can get off its duff and do something about it.

I want to move to another area, which again is related to financial problems. There are a number of small police forces around and it is kind of in vogue now to have investigations into small-town police forces. I recall about five years ago we had some discussion during the course of the estimates about small police forces and whether everyone was getting proper training and about the police college. We had a nice long discourse about how wonderful it would be if we could get everyone up to the same standard.

11:20 a.m.

There was some recognition at the time that the reality was that very often in smaller communities police forces were not as tightly organized as they might be. Because I come from a small town, none of this was very much of a secret to me. The guys I played hockey with one day all of a sudden became police officers the next day. At the rink we usually stuck them in the penalty box. The next day they were putting people in the penalty box. They tended to be a little on the large size and not exactly university-qualified.

There is that continuing problem in any small community in Ontario. I know that the prime requirement for a police chief in a small town is to be a nice guy, which does not necessarily mean he is a competent police officer, although it does not necessarily preclude that either. There is that great difficulty, and there is always a difficulty when you move the other way.

When you bring the OPP into a smaller community, there is often a great deal of animosity for a very good reason. If your kid got in trouble with the local police officer, you knew the guy and you could go down and say, "It is my kid. The kid is a little wrong, but I will take him home and boot his rear end for him and he will be just fine." A local police officer would have a tendency to listen to that in a very receptive way. Some OPP officer who rolls in off patrol from 30 miles away might not be quite so receptive to that kind of discussion. So there are difficulties either way.

The problem really seems to be surfacing again in several of our smaller communities

where there are now police investigations under way by your ministry into the actions of the local force, and that seems to be an awkward way to proceed. Again, if we had a pattern here, where on a regular basis—and I know you are going to say it does happen on a regular basis—there was co-ordination and inspection of police services in smaller communities, we just might get away from that. The pattern we now have is that the crisis erupts, some local scandal takes place and usually the Napanee Beaver has a front-page story. Then the ministry is down the following week to investigate what is going on in Napanee.

That continues to be a problem. In a number of other areas with municipal forces, there seems to be some difficulty in handling things. I recall the last time I was down home I read the Kingston Whig-Standard. It had a long series of stories about something which had happened ever since I can remember. Once a year or so people from Queen's University decide that exams are a little tough that year and they ought to celebrate, so a small party very quickly becomes a large party. In this year's annual celebration of the writing of exams, the large parties got a little larger than normal. In fact, in one instance students took over a whole street.

The police officers arrived, and there were about 500 kids on the street drinking beer and having a generally wild time. The residents themselves did not quite appreciate all of this fun and frivolity and many of them barricaded themselves inside. One guy armed himself with a shotgun. The Kingston police department stood and watched it all.

There was a continuing dialogue on the front page of the Kingston Whig-Standard as to exactly what the cops were doing there. They obviously were not moving in to break up this disturbance. In the last clippings I received from the Whig-Standard, I do not believe any charges had been laid. There was, I think, a kind of secret report to council and so on.

That does get to the problem that even in our smaller communities we sometimes have situations occur with which the police do not seem to be able to cope. In that particular instance, they responded to a call, obviously. I can imagine that probably somebody I grew up with is now a cop in Kingston and wheeled a patrol car up to this huge block party. I imagine his first instinct was to join the block party. Then he discovered that this one was a little bit out of hand.

As a police officer, what would I do in that situation? Would I wade in there and try to come out of there with three guys who are really

troublemakers, because I probably will not make it out of there? Should I call in the troops? I do not believe that the Kingston police department has a SWAT squad. I would guess in Metro Toronto they would all be out roaring around with sirens and trucks, et cetera. In Toronto, there would be the potential to break that one up in a hurry, but a small town police force does not have that.

The sad part of that situation is that it would certainly appear from everything I have read that the police officers did not know what to do and in fact did nothing. The difficulty in that is, I suppose, one could simply say, "We let them blow off steam."

Mr. Mitchell: That might have been good judgement.

Mr. Breagh: It may well have been good judgement. That might be one's first instinct on that. But what if the guy who got out his shotgun and loaded it up did what the guy in Hamilton did who loaded up his shotgun? He shot at some university students.

Is that good judgement? I think not. It is strange, but one gets out of some situations more by luck than judgement.

Mr. Mitchell: But what is the role of the force? Is it not to keep the peace by the best method possible?

Mr. Breagh: If I were a resident on that street, I would be saying: "You certainly did not keep any peace here last night. They rampaged up and down the street."

Mr. Mitchell: But in the long term, they may well have done.

Mr. Breagh: I am not sure about that either. In the long term students may say: "We were just letting off steam. The police officers watched us and didn't arrest anyone, so they must have thought it was all right too." In that short time precedents are set, attitudes are established and people get away with things they perhaps should not have been allowed to get away with.

A small police force does not have the personnel Metropolitan Toronto has; perhaps not all of the officers have been through police college training or have had exercises in crowd control. That is where the difficulty arises in a case such as that of the fellow in Hamilton who loaded a shotgun and shot a man he thought was burglarizing the residence—which he may in fact have been doing. Perhaps you could bring us up to date on that. So far, I do not believe there has been any move to prosecute.

Hon. Mr. McMurtry: There is an inquest scheduled.

Mr. Breagh: That brings me to another concern. Policing in Ontario is becoming Americanized. I read the report of the task force on the use of firearms by police officers, which was submitted to the Solicitor General in November 1980 by Judge F. John Greenwood.

Hon. Mr. McMurtry: If I may interrupt for a moment, I would like to clarify that although I said an inquest is scheduled, the date has not been set for the Hamilton situation because there are criminal charges that have to be disposed of. There will be an inquest into that matter, but the date has not been set as yet.

Mr. Breagh: The public is getting the impression that certain things are becoming acceptable in Ontario which hitherto were clearly forbidden.

In a number of American cities almost everyone carries a weapon of some kind. Everyone has a revolver in the glove compartment of the car and shotguns and rifles in their homes; and they discharge them with amazing regularity. The National Rifle Association and several other interest groups openly express the fervent belief that they do so rightfully; that it is a constitutional right to carry firearms and to use them to protect their property. In Canada, that is not seen by the population to be the case, and I am concerned that, when it does happen, as with the Hamilton incident, the response is unclear.

It is not my intention to defend people who burglarize houses or to single out a given situation. I will not be sitting on that inquest and will not have all the evidence before me. But because of media coverage, the attitude is there.

It is my fervent hope that we are not approaching the state which exists in several American cities and that firearms will be used every time someone thinks something is wrong. If legal precedents establish that such action is permissible, citizens who see this type of activity reported on TV may feel that it is considered by our judicial system to be appropriate action.

There was discussion in the Greenwood report about whether or not police officers should have open holsters. It contained arguments, which I had seen in other jurisdictions, about the necessity of having ready access to the weapon. Someone even gave testimony of a technical nature which argued that open holsters were safer.

11:30 a.m.

As a private citizen visiting the United States, I am disturbed by open holsters. Perhaps I have

seen too many Wyatt Earp movies, but it always strikes me if you have it and are flaunting it, you are going to use it. Even if you do not, people who see the gun will think that. They will think, "If he is going to use it, maybe I had better get one and start to use it too."

I am concerned over that attitude which is coming slowly into Canadian life. If you observe our police forces, and I guess the best example is in Metro Toronto, those things one sees on the television shows about American police are here—the SWAT squad, the ethnic squad, the homicide investigation squad and so on. One will see all of that on the American TV police show, *Hill Street Blues*.

I am bothered by the wave of Americanization entering Canadian police work. I recall that in previous estimates we have had discussion about the traditions of Canadian police work, and how it is a little closer to the British model than it is to the American model. I know that a number of people on police commissions are attempting to bring back into Canadian police work some of those British elements, the most visible evidence of which is the cop on the beat. The theory is that police officers walking either alone, preferably, or in pairs, have a human face and can stop and talk to store owners and others on the street.

A police officer in a patrol car cannot do that. When an officer arrives in a patrol car, he may be unaware of the neighbourhood situation, and the neighbourhood may not know him. That initial halting response that the London bobbies are so famous for—maybe that fame is not quite as much deserved these days—is lacking.

However, I am somewhat bothered by this trend towards having more foot patrols, which it is felt can relate in some way to the the neighbourhoods. I would like to continue that discussion a little as we get into the estimates.

Further evidence of the American influence is the police chase routine. Not too long ago, when money was a little freer, almost every local police force here adopted this American concept. At the Canadian National Exhibition one sees chase cars from Alabama or Louisiana; chase cars which are equipped very differently from OPP vehicles. They have crash bumpers, a place for the shotgun and considerably more caging inside the vehicle. The cars patrolling the highways in the southern states resemble army tanks.

Our officers do not have vehicles of this type. I recall there were specialized police chase vehicles prepared in a number of communities,

vehicles which were equipped with the special heavy duty engines needed for high speed work. They also had redesigned steering, braking and suspension systems. These vehicles were designed to travel in excess of 70 miles an hour.

The police vehicles we make on our production lines are mainly Fords, Chevrolets and Plymouths and are not designed for high speed driving, even in a straight line. Most of us could not drive in a straight line at 90 or 100 miles an hour, and neither can most of our police officers.

So, on two accounts high speed chases make no sense. The vehicles used are, for the most part, not designed to be driven at high speeds by anyone, not even by Stirling Moss. That Chevrolet, Ford or Plymouth is unsafe at that speed, particularly through an urban area. So, in that sense at least, the concept of high speed chases makes no sense.

I know that this troubles a lot of police forces. In my area, the Durham Regional Police Force smashed up quite a few cars, got involved in several high speed chases, and then sat down and said: "Well, this is going to happen, it's inevitable. And if it is going to happen, then we at least ought to take our officers up to Durham College and put them through a skid school. At least give them some basic training in how to drive one of these vehicles at a high speed."

I am not aware that a lot of other police forces have done this. I know there is some opportunity at the police college to take this training, but it is very limited. Some courses have been run there; I do not know whether they are in conjunction with that.

At any rate, the point I want to make is if you are accepting that these chases are going to occur, then at the very least the vehicle which they drive should be designed to go at that speed. Certainly production line vehicles, even the OPP cruisers, have modifications which are to my knowledge now pretty well restricted to some alterations to batteries to handle the communications equipment and the lights. That is basically the extent of the modifications they have.

If you want to see, dramatically, the differences between a standard production line vehicle and one which is equipped—that is to say, designed—to run at high speeds, go to any weekend track meet. Go to Mosport, go to a drag strip, and you will see vehicles there designed to run at high speeds. And they look nothing like the family Chev. They are built

differently, they are totally rebuilt in order to handle high speeds.

Our police officers need to be equipped to operate these vehicles at high speeds. I know it comes down to, in most instances, guidelines which say that in the final analysis some officer has to make a judgement call. In several systems that I have looked at there are little checks and balances in there.

Again, what disturbs me is the pattern. High speed chases tend to happen later in the evening when things are a little quiet in the patrol car. And they tend to happen with younger officers. I do not know of too many older guys who go whooping around the back roads or the main streets of Ontario in the middle of the night chasing somebody.

The older officers I know have a tendency to say, "I think I will call this one in." The younger guys have a tendency to get out there and let it go.

That concerns me somewhat—that pattern of when they occur and under what conditions. At the very least you cannot deny that the vehicle they are driving is not designed to go at that speed and that the officer who is driving the vehicle probably has no training at all in handling a police vehicle, or any other vehicle for that matter, at that rate of speed.

I really think those are two important areas, if you intend to persist with the attitude that it will be a judgement call that decides. It seems to me only common sense; the police officer is sitting in a patrol car with a radio, and if he wants to check out his instincts he can do so rather easily. I know that the guidelines are there so that is supposed to happen. I am not convinced it does happen.

I think we will have an interesting time in these estimates, because I think that police forces are going to take a much higher profile—they already occupy a rather high profile—and I am not sure this province is equipped to do that.

As I said initially, I do see some recognition in terms of the allocation of personnel and the allocation of resources that indicate some change. But I do think there remains, in both police and fire activities, a great deal which is less than desirable. I think even the minister would agree there is some measure to go. Once we all get off that initial line that we all love our local police officers and we all highly respect the firefighters in Ontario—and we do—then I think it makes sense for us to look a little deeper than that, and to say okay, what are the practical problems which they have, and which the citizens have?

In a number of ways our society is moving through changing phases of immigration patterns and different lifestyles. We are all trying to cope with what are human rights, how do we determine how human rights are protected, and how do we deal with that question? For many of us, that is a nice, calm, academic exercise in a committee room at Queen's Park.

We will deal with the human rights amendments that will come through this system. We may get into the odd argument here and there. But for most police officers out there on the street, the question is very immediate; and it is raised, not all the time, but a high proportion of the time—related to something else.

When someone you work with uses a racial slur it is a little tough to accept; with someone you do not know, it is even tougher to accept. When someone is threatening you, that is the most difficult position. And that is the problem a police officer has on the street when he deals with someone he does not know or does not understand. If the words come out of that officer's mouth, that is an extremely dicey situation.

11:40 a.m.

Many people now living in Canada are from completely different social and economic backgrounds. I am sure all of us know that a number of people come from places where a police officer is not seen as a friend at all; a police officer is a representative of an oppressive regime and they do, in fact, shoot people in the middle of the night. That is not, by and large, the Canadian experience, but that is their background, that is their initial attitude towards police and policing forces and is something which must be overcome.

In Metro, there are ethnic squads which are attempting to deal with that. I know that specialization of particular types of officers working on particular tasks, like ethnic squads, is a way in which, for example, the Metropolitan Toronto Police Commission can say, "We're aware there is a problem and we are doing what we can to resolve the problem."

The difficulty with that concept is every time a police officer visits a house, which squad should be called in? Which one gets the call this time? Do you have a computerized system in the patrol car and they go back to and say, "Well, you have to send this special unit out to this house"?

When you get right down to it, it always involves basic police work. Everyone who wears

the badge has to have a certain level of knowledge and expertise in that area. That is where the speciality system breaks down.

It is fine to say to whatever group you are trying to deal with out there, "We've got the speciality squad down at 52 Division"—or wherever—"and if you will just hold off your problem for two days, we'll arrange for them to come and visit you." The fact is most of the time that is not practical; you cannot do that.

Those are all difficulties I see in the society around me that we are not dealing with very well. I would like, in the course of the estimates, to have the minister, as we go through the different votes, respond to some of those points; or he may even choose to respond now.

Mr. Chairman: Thank you, Mr. Breaugh. Has the minister any response or statement he wishes to make?

Hon. Mr. McMurtry: Yes. I would like to respond to the comments of the opposition critics. I do not wish or intend it to be thought that my response is a complete or comprehensive response necessarily, because I do expect some useful dialogue to continue on a number of these areas.

I would like to thank both opposition critics for their thoughtful comments. I may not agree with everything that was said, but I appreciate that they have both given this matter a lot of serious consideration. I would like particularly to welcome the new member to the justice committee, Mr. Elston, and congratulate him for his very carefully wrought opening statement.

A number of these matters have been debated and will be debated during the course of the estimates, so I will attempt to be relatively brief in my comments as I touch on each of these very important issues.

Most of the members realize there has been a fair degree of discussion about one cabinet minister holding the portfolios of both the Attorney General and the Solicitor General. Again, I just want to state that, personally, I have no proprietary interest in holding both portfolios—

Mr. Breaugh: Trying to get it out with a straight face.

Hon. Mr. McMurtry: —and there is no additional remuneration. Obviously, the work load is fairly significant.

But I do want to make it very clear, if the Premier (Mr. Davis) decides, in his wisdom—as he may very well—to appoint a separate Solici-

tor General, as long as I am Attorney General I will have to monitor the activities of police forces in this province. The Attorney General is the senior law officer of the crown.

Possibly this could create a little tension, I suppose, with a Solicitor General who may not agree with the Attorney General's interpretation of the law.

But fundamental to this whole issue must be the recognition that in this province police officers are instructed and are fully aware of their responsibility to act within the law. There can be no question about that.

I might even be so bold as to suggest that some of the problems relating to the RCMP nationally were caused by the fact that, perhaps, the Minister of Justice, as the senior law officer of the crown federally, was not directly in contact or did not monitor carefully enough some of their activities, because a Minister of Justice or an Attorney General cannot abdicate that responsibility simply by saying, "Well, there is a Solicitor General; bring your complaints to that person."

While I agree with what has been said about the changing atmosphere with respect to the very difficult challenges that have been placed on police forces through the 1970s and now in the 1980s, which may very well lead the opposition critics, who disagreed in 1972 very emphatically with the separation of the Solicitor General's portfolio from the Attorney General's, to argue differently today because of the changing circumstances, I am not sure it would. Mr. Renwick put it very effectively in 1972 when he stated that the accountability of the Attorney General requires that he be directly responsible for the operation of police forces. I do not know that I agree necessarily in absolute terms, but there is a great deal of wisdom in that comment.

As for the reason that eight of our sister provinces have chosen to make the Attorney General responsible for policing activities in their provinces, that is a principle that should not be lost sight of. So when the time comes to be relieved of the second portfolio, I will not complain, but I certainly will not take the position that it relieves me of any accountability or all accountability for police conduct within the province. The senior law officer of the crown—whoever that person might be—the tradition states the senior law officer of the crown has overall responsibility for the administration of justice, which of course touches very directly on police accountability on a day-to-day basis.

The next matter that was raised was disparities between regional and municipal police force per capita grants. I do not agree with those disparities. I do not think I have made any mystery out of that fact, but at the same time I hasten to add the Treasurer (Mr. F. S. Miller) assures us that where the municipal police forces lose on the per capita grant they gain in other funding arrangements. So it all comes out even.

I am uncomfortable with at least the perception of the disparity; I make no secret of that fact. It creates the wrong impression, that municipal police forces somehow have less onerous financial responsibility than regional police forces.

While I can appreciate the wisdom of, perhaps, encouraging the development of regional police forces in the first instance, because regional police forces generally have served us very well and therefore there was a reason for some discrepancy in the grant, I have to tell my colleagues very frankly I think that reason, that original purpose, perhaps is no longer present. The perception that the responsibilities of municipal police forces might be less onerous than that of regional police forces can only create misunderstanding, in my view.

11:50 a.m.

Flowing from this is the whole issue of requests by some municipalities—the figure of 29 was mentioned and that may be quite accurate—which have requested the OPP to provide policing for their community on some form of contract. As I have said before, quite frankly the difficulty is we have not rationalized the provision of police services throughout this province. There are communities which are receiving free OPP police services, while other communities which do not appear to me to have any greater tax base or any greater resources are paying for their OPP services. I would welcome discussion about this.

Certainly this is an issue in the north. I know there are some communities which feel, given their limited tax base, the OPP police services should be provided free of charge.

I am not in a position to quarrel with that, because I do not know enough about the tax base in each individual community. But there are communities, like Kingston township, which, to my knowledge, still receive free OPP policing. I have difficulty appreciating the rationale for that because their tax base seems to be, certainly, quite comparable to that of the city of Kingston.

I have never made any secret of my view in this respect. I might say that was the view I expressed in Kingston during the election campaign when I was confronted with some of the local councillors from Kingston who were concerned about what they thought was a discrepancy.

So we are trying to work this out with our colleagues in Intergovernmental Affairs and Treasury, but I have no hesitation in stating that the present situation is not satisfactory. I think it has to be resolved. I do know that the OPP would like to provide these additional services, but it will require additional complement.

There was some talk about hidden subsidies, which I must admit, when we discuss this later on, I do not quite understand, because the OPP resources are stretched so finely. But it would require some form of contract with some communities; and perhaps the province and the provincial Treasurer would feel that other communities should receive the policing free of charge.

I am not in a position to make that judgement personally, other than to say I would like to see the OPP provide these services where they are requested. But we simply cannot do it under our present budget. Again, I would hope that is an issue which will be addressed.

At the same time I want to make it very clear I do not think small police forces should be told by the province they are no longer effective enough to provide policing for their local communities. I say that because some past comments have been interpreted by some municipalities as meaning that it is the intention of the provincial government to impose OPP services on their communities in the sense of phasing out their police forces and taking over the policing without the wish of the communities.

I want to make it very clear I do not believe that is the direction in which we should move. The citizens in the individual communities are in the best position to judge the nature and character of policing they wish to have. While we want to accommodate those who have made a request for OPP policing, I see no validity in imposing OPP policing on smaller communities that are quite content with their current policing.

This whole issue of the civilianization of the Ontario Provincial Police and other police forces is, of course, an issue that is very controversial within the police community. I think the OPP probably has as great a percentage of civilian personnel as any other police force in

the province, and greater than most. I have just been told by the Deputy Solicitor General that it actually has the greatest percentage of any police force in the province.

It is quite true that the ratio has not changed in recent years, because we are, quite frankly, stretched, as I have already said, very thinly with respect to police officers. We are really not in a position to proceed with any greater degree of civilianization until we are satisfied that we have the officer resources which we require; which we do not think we have at the present time.

High speed chases were the next item raised by the Solicitor General's critic for the official opposition and also by Mr. Breagh. There is no question this is an issue that will continue to concern all citizens, because as long as there are high speed police chases—unless they are eliminated completely—there are going to be accidents, accidents which sometimes, very tragically, involve innocent bystanders.

I agree emphatically with the view that the risk to the public should be minimized, and, as I said in the Legislature, I would be very interested to have suggestions about any amendments that might be made with respect to guidelines that have been set out by the Ontario Police Commission.

We really do not believe that we are the fount of all wisdom in this respect, but the guidelines do indicate that the police officer must consider a number of factors before determining to engage in a high speed police chase: the volume of pedestrian traffic, road conditions, weather generally, the type of area and the seriousness of the offence. These are all geared to protect the innocent public from being involved in an accident.

The plain, simple truth is that there are no easy, absolute verities to be found with respect to high speed police chases. Some of you will have noticed the report in the *Globe and Mail* this morning that a high speed police chase led to a murder prosecution.

In the final analysis, as we said before, we have to rely on the judgement of the individual police officer once he has been told that the safety of the public must be given very high priority—the highest of priorities.

In my view, the public would be put at greater risk if it were known that police officers would not pursue. That, of course, would encourage people who are involved in offences or criminal activity to drive at a high speed, knowing they are not going to be followed. The risk to the

public of being caught up in an accident under those circumstances is only too obvious. The very fact that we do engage in high speed pursuits is because we recognize the public has the right to be protected from people who want to drive in a highly reckless manner.

12 noon

There are no easy solutions. I invite members of the committee to examine the Ontario Police Commission guidelines carefully, and I would welcome very sincerely any suggestions that you might have to improve these guidelines. I think that perhaps they could be constantly refined.

We certainly are attempting to monitor the situation very closely. I have asked the Ontario Police Commission to obtain reports from all police forces throughout the province on a regular basis with respect to the circumstances surrounding any high speed police pursuit. When the representatives from the Ontario Police Commission are here, they will be able to go into this in some detail with you.

It is a troubling issue, but I reiterate that there are no easy solutions.

I have to say with regard to this whole business of high speed pursuit or high speed driving that, in my view, we are living in an era when we have a highly irresponsible entertainment industry. I say this because, although I am not an inveterate moviegoer, I do attend films from time to time with some of the younger McMurtrys who are more interested in them, and I can recall very few movies, relatively few movies, that have not featured some form of reckless driving—high speed pursuits—and romanticized it. The entertainment industry has done more in the last decade, in my view—well, perhaps I cannot qualify it in those neat terms; but, in my view, the entertainment industry has done an enormous amount to increase the risk of the average citizen in North America. It has contributed to this risk in a very significant fashion over the past decade.

I mentioned high speed pursuits, high speed driving, which they romanticize to such an extent, knowing, as they do—they have to know—that it can only influence drivers; drivers generally, but particularly younger, impressionable drivers. The extent to which the entertainment industry wallows in violence in entertainment in all respects in my view has a very direct influence on the rate of violent crime, whether it is related to high speed driving or not.

This is one of the factors that police forces

have to face in this age. It is very depressing to all of us that the economics of the film industry require this high degree of irresponsibility. I think for those of us who are fathers—and most of us are—of young teen-age drivers, it is a very distressing outlook.

And, quite frankly, we do worry that young police officers themselves will be encouraged by the romantic portrayal of high speed pursuits, of which we get such a steady diet on a day-to-day basis from television and the movies. This is one of the reasons we do not teach high speed pursuit at the Ontario Police College.

We are going to continue to upgrade safe-driving courses; because on balance we feel that if you teach high speed pursuit it is likely to encourage a level of high speed pursuit that is not in the public interest. That is the view of the overwhelming majority of senior police officials. It is a view with which our colleagues in other countries agree.

It is a difficult choice to make, but we believe the emphasis should be on safe driving and not on skid schools or training in other types of driving that might be necessary in a high speed pursuit. We would prefer that officers did not take this sort of risk.

If you train officers in this type of high speed pursuit, the likelihood is that you encourage them to take unnecessary risks. It is a difficult tradeoff, but that is the judgement we have made at this time and it is one that seems to be supported elsewhere.

The next issue was organized crime. We will have members of the Ontario Provincial Police here during the estimates. I will ask one of our assistant deputy commissioners, who is in charge of special services, to give you a more comprehensive statement with respect to organized crime in Ontario which may be of interest to you.

Obviously, it is something that involves a lot of police resources. There are a number of joint force activities involving the Ontario Provincial Police, the Royal Canadian Mounted Police and the major municipal police forces. Even during a time of restraint, we have been able to get additional millions of dollars in the last several years to enhance the ability of the Ontario Provincial Police in the fight against organized crime.

There is no question that people engaged in what we would describe as organized criminal activity have developed increasingly sophisticated methods of pursuing their illegal objectives. For example, there is in Toronto currently

a conference on computer crime, as but one relatively new phenomenon in relation to criminal activity. It does demand additional resources. Compared to comparable jurisdictions we are doing very well, but it is an issue that is of great concern to us.

The next issue raised was the police complaints bill that was introduced and soon may very well go out to committee. I would ask the members of the committee to try to expedite the hearings because I think the worst of all possible results would be for there not to be any legislation.

There is no question that this is an issue that has been debated very extensively over the past two or three years. I think every group that has a point of view has been heard, either directly, by myself, or indirectly, through submissions, and to extend hearings for a lengthy period of time would deprive the citizens of Metropolitan Toronto of a pilot project. While it may not satisfy everyone—I do not expect it will—I think it is certainly worthy of at least a trial.

On the weekend I was speaking to some prominent criminal lawyers with respect to the proposed legislation, and they are usually on the opposite side of these issues. They agree that at the very least the project should be given an opportunity to demonstrate its value or otherwise.

12:10 p.m.

The issue of fire inspection, of course, has gained a lot of attention, and understandably so. We know that a uniform fire code will be forthcoming before the end of the summer, but, at the same time, I think we have to realize that no system of inspection is going to eliminate tragedies that are the result of human error or lack of judgement. As I recall, the Paris fire and the Hamilton fire both involved people turning off fire alarms. It was a significant factor in both of those fires.

Apart from any fire code and shift in resources with respect to fire inspection, I am going to have to continue to remind the private sector of its overall responsibility in this issue because there is never going to be the number of fire inspectors that all of us would like, given the enormous job. One could ask for literally tens of thousands of fire inspectors and still run into tragedies if the private sector is not prepared to carry its responsibility.

It would be unwise to create the impression that fire safety is only the responsibility of the government. The private sector is going to have to face much tougher fines. As I said in my

opening statement, the larger hotels should be quite prepared to have full-time, well-trained fire inspectors on their premises at all times. When one looks at the complexity of this issue, one can appreciate that is a very obvious initiative.

Turning now to some of Mr. Breaugh's comments, with respect to communication in northern areas so far as the OPP is concerned and two-man patrol cars generally, it has already been noted that \$10 million in this year's budget is earmarked for a vastly improved OPP communication system, something which certainly keeps an individual officer in contact with other officers.

With respect to two-man patrol cars, it is not the panacea that some people would make it out to be. There are certain tradeoffs here. With some of the tragedies that have occurred, there is every expectation they could just as easily have occurred if there had been two people in the patrol car.

There are two fundamental tradeoffs to consider, one of which is the resources. Policing is becoming increasingly expensive. Of course, the taxpayers are having to pay a great percentage of their tax dollars for policing. I do not quarrel with the level of salaries that our police officers receive because I think it is justified, but obviously it has created a fairly significant burden for the individual taxpayer, a burden that I think most taxpayers are quite willing to assume. One cannot lose sight of that issue.

There is also the issue that there are some people who feel that two-man patrol cars result in cutting off the police officers a little bit from the public they serve. Views have been expressed that with two-man police cars, automatically there is a tendency for the two police officers to relate more to each other than to the community. That is a serious consideration.

No one questions the wisdom of two-man police patrol cars in areas where there is some reason to believe an element of risk or an element of hazard would be faced if there was only one officer in a patrol car. Again, it is a judgement call. It is a difficult judgement to make, but it is one that we are going to have to continue to confront.

The next issue that was raised by Mr. Breaugh was the bathhouse raids. I indicated to him during his remarks that neither the Solicitor General nor the Attorney General was consulted before these raids took place. I do not say this to encourage any implication that I am criticizing the raids as such, but simply as a statement of fact.

As I said in the House the other day, an assistant crown attorney, apparently in the downtown York office, had been consulted on some aspects of the particular operation, and I have said that until these cases are disposed of in the courts there will obviously be restraints on anyone in my position as to what we can say. I do not think comparing the OPP arrest figures with respect to prostitution is overly helpful because this issue is not one that normally faces a police force that has greater responsibility in the rural areas than in the large metropolitan areas.

The matter of the relationship between the police forces and the Solicitor General and the Attorney General is a very delicate one inasmuch as it is absolutely essential for any Solicitor General or any Attorney General to maintain the perception as well as the reality that decisions made with respect to law enforcement are not made on a political, partisan basis. As Attorney General, I have always taken the position that the police do and should enjoy this degree of independence when it comes to the laying of criminal charges. If they act improperly, then the accountability is there.

There is some difference of opinion between Attorneys General in relation to this delicate area. For example, there are Attorneys General in other provinces who feel that police officers should not lay any criminal charges without checking at least with the local crown attorney. We do not agree with that principle. We believe it could create the impression that police officers will be motivated by some partisan, political consideration if they have to check with the local crown attorney with respect to every charge they lay.

That is not to suggest that they do not very frequently go to assistant crown attorneys or crown attorneys for advice with respect to the laying of charges, particularly if there is a complex legal issue. Obviously this interaction occurs on a day-to-day basis. This does not suggest that the citizens should not be protected against the frivolous laying of criminal charges. If there are charges laid that are frivolous, then there must be that accountability as well.

This is basically the system in the United Kingdom, where each individual police officer is cloaked with the responsibility of enforcing the law. If a police officer has reasonable and probable grounds to believe that an offence has been committed, then he has a responsibility unless there are some compelling circumstances to do otherwise.

A statement I often refer to is one by Lord Denning, Master of the Rolls, a very respected judge in Great Britain, who stated that the police officer, in exercising his responsibility, is not the servant of anyone, not the servant of his immediate superior, not the servant of any law officer of the crown nor of any cabinet minister. There is that individual, sworn responsibility. And the system has worked quite well.

12:20 p.m.

Unlike the perception and the reality, I suppose, in the United States where there is the district attorney sort of supervising investigations, charging around with law enforcement bodies; we have attempted to avoid both the reality and the perception of that situation here.

Mr. Breagh talks about some crusade I was on with respect to Yonge Street. I am not sure I know what he was referring to because I cannot recall ever discussing with any police officer at any time the laying of any criminal charges concerning any activity on Yonge Street. The Metropolitan council wanted amendments to the Municipal Act to give it greater regulatory authority over the activities carried on by some of these premises and we acceded to its request.

While it is suggested that we should turn a blind eye to some areas where prostitution is carried on fairly openly, on the understanding that this problem has always been with us and we are never going to eliminate it, in my view, that is not the right approach, not in our culture at least. The so-called combat zones in the US where this has been tried have produced some very unhappy results. The young football player who was murdered in Boston a year or two ago is but a tragic example.

In the North American culture the sad fact is that prostitution invariably attracts far more serious criminal activity, much more so than seems to be the situation in Europe, for example, and elsewhere in the world. I am not a sociologist, so I cannot tell you precisely why that is so, but our experience in North America has demonstrated that prostitution and pornography is an industry engaged in by criminals in a very major way. With this type of activity comes a lot of much more serious criminal activity, some of it of a very violent nature. While I agree that police forces cannot direct a major part of their resources to the issue of prostitution alone, given all their other needs, it is obviously something they cannot ignore.

With respect to the laying of criminal charges generally, the Attorney General usually is consulted about any particular charges by his senior

officers only when it appears that the matter is of general public importance as opposed to individual lawbreaking. That does not mean we are not responsible for any abuse with respect to unnecessary laying of charges or any unfairness in relation to an individual prosecution.

The Attorney General has the authority to stay a prosecution, but it is important that in the public interest a cabinet minister is not perceived to be directing individual police criminal investigation activities. In a general way, yes, we make it clear we are interested in certain issues, and on occasion we have indicated our concerns in the area of pornography, but it is a matter that is very complex.

Mr. Breagh: May I just stop you there? I would like you to have the opportunity to deal with this very directly. Did you or did you not, either as Solicitor General or as Attorney General, have any knowledge at all that there would be such a thing as the bathhouse raids that were conducted in Toronto? I am not talking about formal meetings or memoranda. Did you know those raids were going to occur prior to their happening?

Hon. Mr. McMurtry: No.

Mr. Breagh: Good.

Hon. Mr. McMurtry: I am not suggesting there would have been anything wrong if we had been advised, but we had no knowledge whatsoever. As I said, I was a little bemused at the suggestions, which I realize are sometimes made in the partisan atmosphere of election campaigns, that this was somehow a political operation, because I can tell you, representing the riding I do, I do not think the people in Eglinton riding would have appreciated it very much if they had thought this was in any way politically motivated. It certainly created a controversy I could have done without during the election campaign.

That is the fact of the situation. We hope some of these trials will come to court in the relatively near future so that people will have an opportunity to make their own judgements as to whether the police officers acted wisely.

With respect to the found-ins, crown attorneys or law officers of the crown are looking at a lot of these charges very carefully in order to determine the public interest involved with respect to these prosecutions and the weight of evidence.

Mr. Breagh: Could you also delineate for us the differences which you see between that area

of Boston which is known, I think, as the combat zone and that area of Toronto which is known, I believe, as the track?

Hon. Mr. McMurtry: I'm sorry, I really can't.

Mr. Breaugh: I have not visited either of them, so I have to take your word for it.

Hon. Mr. McMurtry: I have not visited either of them myself. I believe part of the so-called track is in the Jarvis-Isabella area.

Mr. Breaugh: Don't look to me for advice on this.

Interjection.

Mr. Breaugh: Just watch the comments on this.

Hon. Mr. McMurtry: I know there have been a number of complaints made by citizens in that area and by local aldermen with respect to some of this activity, which does really constitute a public nuisance, quite apart from any lawbreaking. The growing incidence of child prostitution is another issue of great concern, but I cannot make any comparisons.

With respect to police activity, it must always be recognized that there is a high degree of discretion involved, and I think police forces generally exercise their discretion very well. With respect to some of these so-called morals offences, a famous Victorian dowager made the oft-quoted statement, "As long as they don't do it out in the streets and frighten the horses. . . ." That may have been a rule of thumb at one time, but the police forces of the province at any given time have to make the very difficult decision as to what percentage of their police resources can be allocated to any one type of criminal activity. Again, there are no obvious guidelines other than to act in what they honestly believe to be the public interest. That is the fundamental consideration.

12:30 p.m.

The next issue I want to turn to is the hospital strike. I will obtain for you, Mr. Breaugh, during the course of the estimates—early on because I do not have the legislation in front of me—a statement or memorandum with respect to my understanding of the difference between what was, on one hand, an illegal strike entered into by the hospital workers and, on the other hand, a strike by the interns that was not illegal.

I am not in a position to make any qualitative statement with respect to the relative importance of the services that are provided by these various groups of people other than to say that the interns' strike could have created a great

deal of problems. There is no questions about that. The hospitals were able to carry on. In any event, it is really a matter for the Legislature to determine what is lawful and what is unlawful.

With respect to the Canadian Union of Public Employees' strike, in my respectful view there is no question about the public interest component in this whole matter. Certainly the Minister of Labour (Mr. Elgie) was very concerned that he might be perceived to be taking sides in the dispute. There were many people on the management side who felt he was not nearly aggressive enough on the side of management. I only mention that to indicate the very fine line he had to walk in encouraging conciliation, and I think he handled it very well.

It is unfortunate if anybody in the union movement feels the government was choosing sides between labour and management in this strike. The truth of the matter is that we had to serve the public interest. I think the manner in which we went about it was very much in the public interest, given the extent to which patients were becoming the scapegoats of a very unhappy labour dispute.

If I may be allowed some brief editorial comment, I think the unions in this province recognize the efforts that this government has attempted to make in order to maintain a fair balance between management rights and union rights as we go down the road. I do not want to be provocative—

Mr. Breaugh: Now you are being provocative.

Hon. Mr. McMurtry: —but I would remind some of the members of the committee that we get a very large percentage of the union vote in this province and, I do not hesitate to say, with all due respect, a larger percentage of the labour vote than your own party receives in the province of Ontario because we do make every effort to maintain the appropriate balance. Many of us on the executive council of Ontario have been members of labour unions at one time or another in our careers, which I am sure comes as no surprise to you.

Mr. Breaugh: You belong to the best one, the Law Society of Upper Canada.

Hon. Mr. McMurtry: I am not thinking of the law society. I guess I feel a little sensitive to any suggestion that this government is in any way anti-union. We have to serve the interests of all the citizens of the province.

As you yourself have recognized—and, I think, very fairly—the role of the police officer is very difficult. Most police officers are mem-

bers of their own union and they are not unsympathetic to the problems involved in labour-management negotiations. I think it is fair to say that the police, certainly since the last estimates—and I am not suggesting they did not do it before—have demonstrated a great deal of sensitivity as to how they handle their very delicate role in labour-management disputes, some of which become very volatile for understandable, human reasons. It is not something police officers look forward to.

We continue to impress upon them the importance of their being perceived as not pro one side or the other. Maybe they do not always succeed, but I can tell you they try very hard to maintain that role.

Mr. Breaugh: Could I just stop you? I would appreciate it if, either now or sometime during the course of the estimates, you would give us a rather detailed outline of the nature, the scope and the cost of the investigation into activities around the hospital strike itself. Could you give us an estimate as to when that investigation might come to some conclusion? If you will pardon a personal note, are you really going to throw me in the can too? My wife and kids would like to know the answer to the last question.

Hon. Mr. McMurtry: We certainly can, I think, obtain for you the scope and costs. I have read some of your comments in the newspaper, Mr. Breaugh, about your own involvement. I do not know all of the details. Given what I said earlier, I would be loathe to speculate with respect to when this investigation is going to be concluded. I hope it will be in the very near future and in everybody's interests.

Mr. Breaugh: My wife is going to hate you for that.

Hon. Mr. McMurtry: Next is the Ku Klux Klan.

Mr. Breaugh: You are moving right along.

Hon. Mr. McMurtry: There is some criticism of the police with respect to the fact that apparently they did not monitor what was going on with respect to this attempted takeover of a small Caribbean country. The investigation is still going on. Given the nature and the relatively small size of the operation, I do not think it is fair to criticize the police for not being aware of what appeared to be a bit of a bizarre, although serious, attempt.

The extent of the so-called tie-in with the Ku Klux Klan remains to be determined. I want to remind you that the major figure from the Klan

was a fellow by the name of McQuirter who has long been associated with that type of activity. When I say "that type of activity," I am particularly emphasizing the racist nature of the activity. He was associated with the Western Guard.

The police, I think, were fairly aggressive within the lawful limits in investigating and prosecuting the Western Guard, with the result that their leader went to jail for a couple of years. They seem not precisely to have disappeared, but they obviously are a pretty minimal group in a pluralistic society which can always be expected to attract a certain lunatic fringe. Some of them have re-emerged in the Ku Klux Klan. One never can be entirely certain of the extent to which they are operating, but we can say that their operations are fairly minimal.

We do know that the Klan has a very extensive history of manipulating the press. I think there is a Columbia University study on this very subject. They like to spread all sorts of rumours with respect to the extent of their activity, most of which turn out to be absolutely groundless, but they attract media attention. I am not criticizing the media because it is a very difficult judgement call from day to day to know just how much attention to give to fringe groups like this. We do know that they court media attention very aggressively and sometimes relatively cleverly, knowing, as they do, given the nature of our community, there will always be a lunatic fringe.

12:40 p.m.

We will always have a lunatic fringe—regrettably, that has been the course of human history—and there will always be a group of disturbed and potentially destructive people who will be attracted to this type of evil cause. The more publicity they get, the more likelihood there is that this is going to attract additional members. I reiterate what I have already said in the Legislature, that the Klan's activities, such as they are, are being monitored very closely. If there is any evidence of any lawbreaking, one can assume that it will be pursued very aggressively.

I think it is probably fair to say that the Klan's activities are monitored more carefully than some people would argue is necessary, given the limited police resources. We recognize that they do represent a potential threat in the eyes of many of our citizens. It would be unfair to them if we were not to give this monitoring a very high priority.

Mr. Breaugh: Setting aside who they were, it

is true that your investigation began with no prior knowledge that certain individuals had hired mercenaries, gathered up funds, perhaps did some weapons training and put together this crew? However small it was, you had no knowledge of it?

Hon. Mr. McMurtry: I did not have any personally; and I am not aware of what knowledge any of our police forces had of it. That is not to say that no one did have any knowledge of it, but if they did, it certainly has not been made known to me.

Mr. Breaugh: Obviously a local radio station did. It had tapes on the situation.

Do you subscribe to the theory, which was attributed to McQuirter and which I found remarkable, that one of the reasons it was put together in Toronto is that our conspiracy laws have few precedents and are a little vague? I do not really read them that way, but he gave that as one of the reasons Toronto was used as a base for the plan.

Hon. Mr. McMurtry: Yes, and he may live to regret that statement.

Mr. Breaugh: Have you substantiated any of the reports, which I know you have received, about the Klan's operating training sites either in one location on a regular basis or in several locations? I know that information has been reported to you.

Hon. Mr. McMurtry: The forces are all aware of my very great interest in this matter and have assured me that I will be notified very quickly if any information comes to their attention.

I want to turn next to the phenomenon of the investigation of small police forces. Some of the larger police forces are accustomed perhaps to inquiries related to their activities just by virtue of their size. There have been a couple of incidents where it was necessary to bring in the Ontario Provincial Police to do an investigation. This is bound to happen from time to time.

The chairman of the Ontario Police Commission has said publicly that he wants the police commission to monitor the activities of these small forces more carefully and more comprehensively than perhaps has been done in the past. This is not intended to represent any sort of an indictment of small police forces, but their resources are limited and it is felt by the Ontario Police Commission that a more regular monitoring may turn up problems that are not obvious to the local force.

I have already said that small town police forces in this province serve a very useful role.

Often they are more readily accepted by the community than a large regional or provincial police force. This is not necessarily so, of course; it varies from area to area and depends on the quality of the force. Some smaller communities do not like what they perceive to be the depersonalization that comes with a large police force.

To repeat what I said earlier, I feel this is a decision that should be left, wherever possible, to the individual municipality. The fact that we have had a couple of investigations of small police forces within the last year does not necessarily indicate a trend. Rather, it indicates that the challenge of policing is growing greater with every passing day in smaller communities as well as in larger communities, although perhaps not to the same extent. Given the nature of this challenge, I think it is both important and useful to discuss these issues in the estimates.

I agree with Mr. Breaugh's view that the Americanization of police forces in Canada in general terms would be most unwise. I am not suggesting that there are not many good American police forces. I think both he and I are referring generally to the approach that some police forces seem to adopt in the US, the swaggering, open-holstered approach, which has always had a negative effect on me. The cowboy appearance that some of the major and lesser forces in the US have adopted does nothing to enhance the perception of quality law enforcement, and I should hate to see that trend develop here.

So far as the Greenwood report is concerned, the recommendation with respect to such things as open holsters is related, as Mr. Breaugh indicated, to what he regards as an important safety feature which cannot be ignored. The response of the police community to that recommendation has tended to be rather negative for some of the reasons the member has already outlined. However, we are inviting responses from all police forces. We will not make a hasty decision in this respect.

I agree that more foot patrols are desirable. I do not think there is any police force that would deny the wisdom or value of more foot patrols. The response generally is, "Give us the money and we will have more officers on the beat."

The problem seems to be that with the increasing challenges and demands that are being made on police forces, on the one hand, and shrinking resources, on the other, the more mobile form of police surveillance is necessary

simply by reason of economics. I think all police forces recognize the important relationship that can be maintained by this interaction between citizen and police officer. That is much better served, in my view, as well, by foot patrols rather than by cruising patrol cars.

On the other hand, we have to recognize that one or two officers in a patrol car can cover a greater distance and maintain a higher degree of visibility for the same police resource. That in itself is an important factor. So, in the best of all possible worlds, we would like to have the same number of police officers in patrol cars in order to give that visibility of law enforcement and also increase the number on foot patrol at the same time. But, given the cost of policing, there are some very difficult tradeoffs.

The last item I wish to deal with at this time has to do with what Mr. Breaugh had to say about the challenges facing police officers with respect to changing Ontario society and the fact that we are becoming an increasingly pluralistic community. That brings with it special challenges for police forces in the understanding of the different cultures which are becoming so much a part of our Ontario society and in maintaining a healthy interaction with people of different cultural backgrounds. I think the police are making a major effort in this respect.

We tabled the Gerstein report during the last year, and that report certainly recognizes the needs in this regard. I do not think there is any

doubt that within the areas of the province where this is a particular challenge it will continue to be given a high priority.

We also have to bear in mind that in some areas of the world from which some of our citizens have come, or which represent their origins, police forces do not enjoy the high reputation enjoyed by our police forces generally in Ontario. Policing in other parts of the world sometimes represents a very negative connotation in the minds of some of our citizens and their children. This does make it difficult with respect to hiring people who represent cultures other than the basic cultures in the mainstream of Canada. I think most police forces in areas where this is necessary are making a commitment to maintain police forces that represent the community as a whole, but there are no easy solutions to that as well.

I did not mean to almost run out the clock, but there were a lot of very important comments made by both of the critics for the opposition parties and I wanted to take the opportunity to respond to those comments.

Mr. Chairman: Thank you, Mr. Minister.

Mr. Bradley: We appear to have completed the initial remarks of the Solicitor General and the critics.

The committee moved to other business at 12:53 p.m.

The committee adjourned at 1:59 p.m.

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Ontario

No. J-2

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of the Solicitor General



First Session, Thirty-Second Parliament

Wednesday, June 3, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, June 3, 1981

The committee met at 10:04 a.m. in room No. 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL

(continued)

Mr. Chairman: We have a quorum. We will recommence the Solicitor General's estimates.

On vote 1701, ministry administration program; item 1, main office:

Mr. Chairman: I believe we were at the point where the Liberal member was to commence his remarks on vote 1701, item 1. I would also refer to the matter of having seven hours and 17 minutes remaining for these estimates.

Mr. Bradley: Mr. Chairman, I have some questions which I think would best come under this vote. They relate to the role of the Ministry of the Solicitor General and the agencies of the Solicitor General in regard to an investigation into Astra Trust and Re-Mor.

I see the minister has with him some officials who, no doubt, would have some of the details we would be looking for and also those we would want to steer away from. Of course, we would want to steer away from any matters that would be sub judice. That is important. I did have some questions about the role of Ministry of the Solicitor General as it relates to police forces in this province.

One issue that came up during the course of the justice committee's inquiry into the Astra Trust/Re-Mor affair was the question of when the police—and I suppose particularly the Ontario Provincial Police—first began investigating this matter.

Mr. Chairman: Mr. Bradley, we are on vote 1701, item 1, which is main office.

Mr. Bradley: It is a general vote, is it not, Mr. Chairman? The custom is that a very wide latitude is permitted on that vote.

Mr. Chairman: That has been given; that has been completed. You are quite correct in that it is the custom and the convention to have a wide-ranging discussion on the first item, 1701-1. That has been completed. If you will recall, the minister made his statement. Then each of the opposition critics made his statement and the minister gave his response. That meeting broke

up at 12:55, I believe, on that date. That is the end of the wide-ranging matters, and we are now on the narrow vote 1701, item 1, main office.

It is in order for you to restrict your remarks to that item. The matters to which you apparently are addressing yourself will come in a vote further on. Perhaps 1704 is the vote to which you are referring.

Mr. Bradley: If we ever get to 1704. We are once again thwarted.

Mr. Chairman: May I have any further discussion on vote 1701, item 1?

Mr. Breaugh: I want to ask a couple of questions under this vote since in general this is the co-ordinating aspect of the ministry. There appear to be a number of areas where that co-ordination seems to be missing in spots. I want to ask a couple of questions that point out some loopholes.

For example, there is the Grossman inquest which is continuing at the coroner's court this morning. I do not want to talk about anything that is before the coroner but about some of the details. It appears from some of the press reports that, in the process of getting the police to conduct or be part of the search process for a patient who was missing, doctors had to falsify records in order to get the co-operation of the police to conduct the search for the patient.

Would you clarify for me exactly what that process is? Is there a legal problem that says a hospital has to declare—I do not know precisely what it would have to declare at that point—that someone is missing and file a missing persons report or whatever? What exactly is the process there?

Hon. Mr. McMurtry: I do not know what the problem is in that regard. I do not recall what the issue is with respect to obtaining police assistance because obviously police assistance is available if it is a reasonable request.

I read a little bit about it in the press. I understood from my reading of the press reports that it was not a requirement imposed by the police but just an internal administration requirement with respect to the calling of the police.

Mr. Breaugh: I guess we have not really thought about it that much. There was another

report yesterday of a woman in a nursing home who, I believe, had been missing since the middle of May or some time like that—a fairly lengthy period of time. Where patients are missing in a hospital or nursing home, there seems to be an undue period of time between the staff noting that they are absent and they do not know where they are and a subsequent police investigation as to where they might be. It seems to me there is slippage there.

Hon. Mr. McMurtry: That, again, is an internal matter for the hospital or nursing home. To my knowledge, there is no reluctance on the part of the police to assist any of these institutions or agencies when called upon, but I assume all of these institutions have their own internal arrangements as to when they want to bring the police into the issue.

It is not a question of the police telling them when they will come in or when they will not come in; it is a question of having internal reasons. I suppose these institutions will have to explain just what the reasons are. It may have something to do with their reluctance to have police unnecessarily on the premises. I do not really know.

Mr. Breaugh: I understood it was the other way around, that the problem was the police would not investigate until there was some probable cause for police investigation.

Hon. Mr. McMurtry: If it is a missing person, it is a judgement call, I suppose, in all of these cases as to whether the individual police officer or the person in charge of the police division is of the view that police services are warranted. There are really no rigid guidelines.

Mr. Breaugh: I have encountered the same kind of problem with constituents who, for whatever reason, after a son or a daughter or some relative had been absent from the house for some period of time, then attempted to get some information, which is basically all they wanted, from a police force. There seemed to be some hesitation about what role the police could play in that.

It always seemed to me that the police needed some probable cause, some evidence that a criminal act had taken place, but for a normal run-of-the mill complaint, the "my son is no longer at my house and I do not know where he is" kind of complaint, there was not a good response. There had to be something in addition to that.

Most commonly, these tend to do with young people who run away from home. When one

lays a complaint at the local station, the officer there usually says, "We do not really have any grounds upon which to conduct an investigation." It struck me that is similar to the nursing home and hospital situation, that the officers are looking for some basis on which to conduct an investigation.

Hon. Mr. McMurtry: I think it is a practical matter. There is no question that the police, given the fact that their resources are stretched, really are not in a position to provide a locate service on a day-to-day basis.

There are people who want to know where their children are at particular times. If the child is, say, over the age of 16, unless there is at least suspicion of criminal behaviour the police may very well say, "Why should we look for your child?" If it is a child seven or eight years old who does not come home, I would think that the police would be quite co-operative.

Mr. Breaugh: Could you perhaps have your staff give the committee a fuller outline of the two incidents that I cited—the one at Toronto General Hospital and the one at the nursing home on Yorkville Avenue—so that we could understand precisely what technique is used to involve the police in such a search? Would that be possible?

Hon. Mr. McMurtry: Yes. We will try to obtain more specific information for you, although it really is a judgement call in most of these cases. I am not aware of any specific guidelines that have been laid down by the police. But if we can obtain any further information, we certainly will.

Mr. Breaugh: There is a description given of main office staffing. Is this the group of people who would decide that certain kinds of investigations would take place?

Hon. Mr. McMurtry: We are talking about main office and policy development, in which we are really dealing with financial issues. The Ontario Provincial Police, for instance, is an agency that enjoys a fair degree of independence with respect to policy development because the expertise really lies within its ranks.

The extent to which we or the Ontario Police Commission can assist the OPP or any other police agency with policy development depends on the nature of the issue. For example, if there is a matter of some specific interest, such as high-speed police pursuits, this is a matter on which some research may well be done in the ministry, but it is more likely to be done in the

Ontario Police Commission and suggested guidelines circulated by the chairman of that commission.

But so far as the day-to-day operation of the OPP is concerned, most of the policing expertise lies within the ranks of that force and not at the head office of the Ministry of the Solicitor General.

Mr. Breaugh: An example is the matter of equipping officers, or helping to fund local forces to provide officers, with bulletproof vests. I have followed the discussion on that entire exercise with some care, and it never was very clear to me exactly how the process worked. There were various statements made by you and the Premier (Mr. Davis) from time to time, and there were, supposedly, research functions going on about the nature of the materials that would be used. But it was difficult to ascertain—and I may say this does not happen with many of the other ministries—exactly where the process began, how it developed and how you went from identifying the problem to coming up with the solution. Would this staff have been part and parcel of that process?

10:20 a.m.

Hon. Mr. McMurtry: It was mostly within the Ontario Police Commission. Because more police were losing their lives in shooting incidents, more and more interest in bulletproof vests developed in the police community. With respect to the Ontario Provincial Police, the government provides the resources for all equipment. The decision which was made was a policy decision. It was simply that the time had come to provide the Ontario Provincial Police with bulletproof vests.

I think the main reason they were not provided with vests before was there had not been too much interest expressed by the force. To my knowledge, it was not a request which had been made before and had been turned down. The decision was just that the time had come to provide these vests, and the Ontario Police Commission was asked to develop the appropriate criteria in relation to standards.

As far as municipal police forces are concerned, we do not provide the resources. But, given the importance of the issue and to encourage municipal police forces to provide these vests, we thought it a fair arrangement that we should furnish 50 per cent of the funding. There is no obligation on us to do that; it is simply an offer we made. We suggested some sort of

central purchasing arrangement if the municipal police forces wanted to avail themselves of the type of vests we were going to provide to the OPP and we offered to co-ordinate the purchasing for them. I think most of the forces were interested in that proposal.

Mr. Breaugh: By "we"—the co-ordinating agent—do you mean the main office staff? Is this where the ideas originate and priorities are decided? Do you arrange for someone to do the research while the costing goes to another arm of the ministry, but it all centres on the main office staff? Is that it?

Hon. Mr. McMurtry: Our main office staff is fairly modest as far as size is concerned, though not in relation to talent, of course.

Mr. Hilton: Nor, I might say, sir, in relation to their own opinions of themselves.

Hon. Mr. McMurtry: All of this is done through the Ontario Police Commission really.

Mr. Breaugh: But it is like the right arm of the minister. They are a small group of people who advise the minister about current trends in policing and tell him that the time has come to do something about bulletproof vests for officers. Then the political decision over priority would be established and the wheels would start to turn.

Hon. Mr. McMurtry: Of course we develop policy within the ministry. We have a very small staff for that. But, as I said, most of the policy development on a day-to-day basis is done through the Ontario Police Commission.

Mr. Breaugh: Are there other areas in which we might be interested where current trends are analysed by this staff, or where they make suggestions that will eventually go through the process? If so, what would that process be?

Hon. Mr. McMurtry: There are a number of matters, some of a highly technical nature. An example is communications. To a large extent, an effective communications system is the heart and guts of modern policing. We have technical people in the ranks of the Ontario Police Commission who assist municipalities in upgrading their communication systems.

The police must keep good, comprehensive records. That whole process is a very detailed one. I understand research also goes on in the Ontario Police Commission with respect to communications record keeping. What the Ontario Police Commission tries to do is monitor what is happening with the various municipal and regional police forces and assist them

where it feels it can. Often it relates to communications record keeping, but there are a number of other matters such as the allocation of staff for a particular activity.

Large police forces have their own policy development within their ranks. Some large regional forces have resources fairly comparable to what we have. The deputy minister or Mr. Gow would like to add some more details.

Mr. Hilton: There are the head office, the Ontario Provincial Police and the Ontario Police Commission. Then there is the other side of the office that includes the fire marshal and coroners and has that degree of responsibility not related to police matters exactly. They are co-ordinated at the head office which, as the minister has said a number of times, has a very small number of people.

The head office is responsible for budget and payroll for all of them and staffing, not of the police but of the police commission. The OPP have their own staffing requirements. Then we have a certain liaison with people like Intergovernmental Affairs in relation to bilingual staffing and things like that. Where it is requested and where it is felt necessary, the office provides guidance with these other aspects of the ministry but, by and large, as the minister has said, they operate independently.

The head office has an audit system which is not only a dollar audit but is a function audit as well, and that represents a good deal of our staff at head office. It provides the secretariat and the financial support for the preparation of budgets, review of budgets, annual reports and that type of general operation.

As the deputy, I am assisted by one assistant deputy who looks after all those things other than police. I look upon the commissioner of the OPP much as one would look upon an assistant deputy with his area of responsibility and the chairman of the police commission with his area of responsibility, that is, liaison and working with the municipal forces. That is the general overall structure of the ministry.

The municipal police work independently of us. Our powers over them are not very great. They are persuasive and advisory and they assist. We do not have conditional police grants as they do in Great Britain where the Home Office makes a certain determination of how things will be with municipal forces. They only get their money, their provincial support—in that case their central government's support—if they adhere to those standards. That might be an advisable position, but we do not have that power in the ministry.

The power of policing primarily is left to the local police commissions and the local councils. They have to raise the money and pay the money. Perhaps there is wisdom in that because they react then to the immediate needs of a locality; they react to the efficiency of the force as it is perceived in the municipality.

Unfortunately, as you have seen, we have had certain forces lately that have had internal trouble either of an administrative nature, which required the assistance of the OPC to straighten out, or of a criminal nature, which required criminal investigations at the direction of the crown attorneys who are under the Ministry of the Attorney General.

10:30 a.m.

Mr. Breaugh: This would be the group that would be deciding whether the level of funding for the different types of forces out there—the municipal forces, the OPP, the regional forces—is relatively equal.

I know that among many municipal councillors there is a strong feeling that the financing of police forces is unfair, biased and wrong. You give us the other side of the story, which establishes that they are relatively equal. I guess in its simplest form the argument is that regional forces get a different level of funding and a different type of funding, the end result of which is that there are different levels of policing.

Mr. Hilton: It is \$12 and \$17.

Mr. Breaugh: Yes. Can you explain the rationale that the ministry has developed that provides an element of fairness?

Hon. Mr. McMurtry: Only to a limited extent, Mr. Breaugh, because we do not set the policy with respect to these unconditional grants. It is a policy that is developed within Treasury and, I guess, Intergovernmental Affairs. I have said publicly on many occasions that I do not agree with the fact that there is a differential in these per capita unconditional grants as between municipal police forces and regional police forces.

Mr. Breithaupt: Presumably, we could ask your opinion.

Hon. Mr. McMurtry: I volunteered my opinion. Our position is that we object to it because it has the appearance that these forces are being treated differently now. The response we get from Treasury is that when one looks at the whole range of provincial-municipal funding that it balances off in other areas. I have never quite understood how that happens, but they maintain that whereas the regional police forces

receive the higher per capita grant, the municipal police forces do receive funding that in effect makes up for the differential.

Mr. Piché: This is a question I want to ask. You mentioned that in your opening address and I have been trying to find out where they get some extras to make up that \$5 or \$6 extra per capita, which is very unfair.

Having been in the municipal world for 10 years, I still cannot find out what is the difference. Someone has mentioned that we pay \$12 for one and \$17 for the regional. I do not understand.

Mr. Mitchell: Pardon me if my parochialism shows, but on the point that is being raised it appears that whether it be your ministry or Treasury, they are acknowledging the fact that regional government costs more.

Mr. Breithaupt: It certainly does.

Mr. Mitchell: My apologies for saying so. There is a little coercion here, I think, to make regional government a little more attractive by giving it a few extra bucks.

Mr. Breithaupt: I think that is a fair comment.

Mr. Chairman: Could we get some order to this? Mr. Breagh, are you through with that topic?

Mr. Breagh: No, I want to pursue that one a little bit.

Mr. Piché: I hope we can cut in here—

Mr. Breagh: Yes, sure.

Mr. Piché:—if you do not mind, because we have some questions too. I am not taking anything away from the honourable gentleman.

Mr. Chairman: Mr. Piché, I would prefer it if the NDP were to have its statement and finish that. Then it goes over to the PCs next in order. There is a rotation here. I defer to the older members as to whether you want interjections.

Mr. Breagh: We normally allow that. After everyone has had his chance to say his piece at the beginning, we normally get a little less formal about it and allow an interjection.

Mr. Mitchell: Particularly if it is on a point that is under discussion at the time. It sometimes saves covering the same point again.

Mr. Piché: We might bring it back.

Mr. Elston: Are we going to pursue these grants just a little bit? In my opening remarks I raised the same question to the minister and he replied in very much a similar fashion to now. I also provided him with a copy of the statement.

I wonder if we could get some kind of undertaking from him to provide us with the details of where these grants are handed out.

Hon. Mr. McMurtry: I cannot because our ministry just does not have that information.

Mr. Breagh: To get right back to the basic point, you yourself admit this system of financing is not exactly the best in the world.

Hon. Mr. McMurtry: I do not like it. I think the appearance does create problems because it creates the impression that municipal police forces have less onerous financial demands than regional police forces, with which we do not agree. We do not accept that. Maybe the answer, as Mr. Mitchell said, is simply a recognition that regional government is more expensive and, therefore, we are going to give it a higher per capita grant.

Mr. Breagh: I never thought I would hear a minister of the crown saying that.

Hon. Mr. McMurtry: The original purpose, as I think I said in the opening, was to encourage the development of regional police departments. I assume it was a form of incentive. You can say whatever you want to about regional government, and some of you know a lot more about regional government than I do, but I do know a little bit about police forces.

There is no question that regional police forces have been a very important development. I think the public has been well served by the development of regional police forces because of the increased degree of specialization which can be accommodated with the larger forces. I think this is one aspect of regional government that particularly has served the public very well.

Mr. Breagh: I am not so sure about that. In general, I would accept most of what you have said as being probably true, that there is a different level of policing now occurring in many parts of the province that was just not there 10 years ago. But the financing of it and the way it is implemented are often fraught with all kinds of dangers.

I recall from sitting on regional councils that we used to notice a pattern most of the year when talking to the chief of police. He would say, "There is no problem with crime in this area at all. We have it all well in hand. This place is policed to the eyeballs." But once a year, regularly, there would be a sharp increase in crime, usually associated with a couple of heavy duty investigations. And that was just prior to the setting of the regional budget.

I recall occasions in other regions when the

chief of police came into the council and, in essence, said, "If you do not give me the budget I want, all hell is going to break loose." And he put it often in those words. Now that is a hell of a way to run a railroad. That is a serious problem for councillors who, for the most part, when that police budget rolls in—and it is a hefty one and one which they have not really seen before—almost have to argue on the side of crime in order to deal with the budget. That becomes a very difficult thing to do.

That level of financing and the approach to financing policing create a great deal of awkwardness. I do not know of a regional councillor that I have ever seen who was in favour of more crime. Generally, he is against that kind of thing, but that is the position he is in when the police budget rolls in because of the grant systems that are there and the weird and wonderful ways in which the ministry attempts to supplement them.

I recall a couple of cute occasions when, out of the blue, great grants were all of sudden arrived at and cheques handed out to regional police forces. There really were no criteria for that. It was just a general acknowledgement, I think, on the part of the ministry that there was a major financial problem in the region of Niagara or Mississauga or Peel or Durham or wherever and something had to be done.

So a device was found whereby some funding could go into that regional police force for new communication systems and, I think, on one occasion for a new police headquarters—that kind of thing. If they could generate enough local animosity towards the financing of the police system, at some point in time an emergency fund, an old sock under a bed, was found and large amounts of money were given out. That does not seem to me to be a rational way to finance a police force.

10:40 a.m.

Hon. Mr. McMurtry: Again, the financing of police forces is a matter that is left, as you know better than I, to local government. What you say raises some very interesting complex issues. I have had police chiefs complain to me about the fact that their municipalities are not giving policing a high enough priority. For example, we heard the other day from one community where the police headquarters is in terrible shape. Everybody agrees about it, but the police cannot get new headquarters. They complain they cannot get the municipal council to give it the priority they believe it deserves. What sort of pressure can we bring to bear on the local

municipal government to do that? Obviously, we cannot do very much. We have no legislative authority in that respect.

The whole business of financing the police forces is a very complex one. We have a situation where, as I have said publicly on a number of occasions, I believe that the old Ontario Provincial Police, the force that we do fund and are responsible for, requires additional resources in order to carry out its mandate. When one starts to examine the whole process to make a determination as to what is a proper level of police funding, given the nature of the community that is being policed, there is no question that there are no simple formulas to apply.

I have talked to people who have made this subject a matter of careful study both in the United States and in Canada, and there are not any really scientifically tested formulae that can apply. We see figures relating to the number of police officers per 100,000 people where there are certain general standards that do apply and there is some modest degree of uniformity. But there is no question that when it comes to establishing a police budget, it is a very difficult issue because one really can never state in any empirical fashion that this number of police officers in any given area, given the nature of the community, is going to produce this level of protection. There are general standards that are applied.

Mr. Gow, I do not know if you would like to add anything with respect to these matters relating to the establishment of police budgets, as you have been quite intimately involved with this issue for a long period of time.

Mr. Gow: As far as the municipal forces are concerned, the Ontario Police Commission does keep records of its budgets and manpower, et cetera. As the minister pointed out, we have really no control over the unconditional grants system. We have examined that and it has been very complex because there are many other unconditional grants that come into play in areas with municipal forces.

As far as the crown force is concerned, we are given a target budget. Then that is apportioned as much possible to the police force as far as its resources are concerned. There have been a number of studies throughout the world which we have obtained and have looked at ourselves. We have spoken to other large, well-organized, efficient forces, but nobody really has that figure or formula which can say how many policemen are needed. Particularly when it

comes to a budget time, it is very difficult to say we need X number of police officers in this area because of certain crime rates. That is usually done through further deployment or a change in attitudes.

We are trying to work on that formula to see if we can come up with an answer. If we do, the province will probably be one of the first in the world to do so because we have even spoken to senior police officers from Britain who say they are trying to work on the same problem. The cost of policing is escalating to such an extent that this must be addressed. It is a very complex issue. We think we may have some answers, but they need further work. As far as police forces and their actual strength are concerned, no chief of police can pin it right down to exactly the number of people he needs.

Mr. Breithaupt: What co-ordination is done by police chiefs in this area to attempt to find equivalence of complement that they would need? Are they in constant co-operation, or do you co-ordinate the statistical needs, that in a city you need one for 5,000 people and in a rural area you need a constable for 2,000 or however many it might be? Is there an ongoing view of that and co-ordination as to the setting of budgets by various police chiefs or police commissions?

Mr. Hilton: Mr. Chairman, if I may answer that, the Ontario Police Commission does keep statistical analysis of budgets, as has been stated, and it is not too complicated then to make some analysis of the concentration of people associated with criminal figures, motor vehicle accident figures and other elements of adequate policing, and come up with suggestions.

The final analysis in all these things is that the local police commission, and then after it passes through the police commission in a municipality the local council, has to approve the police budget. They, of course, have their priorities to adjust as between roads, welfare and all the myriad things that a municipality has to administer.

The police budget may not get the attention that the police chief thinks it should have or that we may think it should have. But that is their responsibility as the elected citizens of their community. We cannot interfere with that unless it is in an advisory capacity. We do get asked at times to assist in the budget determination of municipalities based on the statistics and the knowledge we have.

You put your finger on one of the great

problems that exists in Ontario, that is, the great variance between the urban municipalities of Toronto, Hamilton, Ottawa, Windsor and London and the rural municipalities of southern Ontario.

Then, as Mr. Piché knows perhaps better than most of us, there are the problems of the northern municipalities where distances are of considerable importance, where density of population may be quite different, where incidents of crime are quite different and concentration of automobiles are quite different.

The variation in computation that exists throughout Ontario makes it virtually impossible to come up with any sort of dogmatism in relation to figures. They can only be advisory and helpful, sir.

Mr. Elston: Do you have any input into these extra special grants, which you spoke about earlier and that the Solicitor General mentioned, which tend to even up the disparity between the non-regional and regional municipalities?

Mr. Hilton: No, we do not.

Mr. Elston: You do not have any chance to make recommendations.

Mr. Hilton: Nor do we even know about them, sir.

Mr. Elston: It seems to me if you help to supervise the budget deliberations, surely if there was some request or whatever for funding by municipalities because they are suffering difficulties in funding their police operations, you could make some sort of suggestion to the ministry that is in charge of evening up the score, so to speak.

10:50 a.m.

Hon. Mr. McMurtry: Because of my responsibility with respect to policing, I encourage the central agencies of government to increase the level of funding and the unconditional per capita grants. We recommended that the grants be equivalent for municipal and regional police forces. I suppose we can take some credit for the fact that the grants were increased from \$10 to \$12 and from \$15 to \$17 within the last year.

Mr. Elston: There is no decrease in the disparity between the two.

Hon. Mr. McMurtry: There is no decrease in the disparity, but that would be a good question. You could ask the Treasurer or the Minister of Intergovernmental Affairs or the new Minister of Housing and Municipal Affairs with respect to these other funding arrangements that would perhaps redress the balance.

Mr. Breithaupt: I can understand the justification in there being a need for certain specialties in the larger forces initially. I would think, for example, there is a need to have cars on patrol, say, in northern Ontario, in Mr. Piché's riding, where the constable has a variety of other duties. I would expect, as he travels along very sparsely settled areas, he becomes almost a fireman, a first-aid person and an observer as to whether the hydro line is down in a winter storm. Those needs are every bit as expensive to maintain as, to a degree, a specialty squad, a fraud squad, say, in a large municipality where that specialty is required.

It is interesting when you say it is difficult to justify the differentials or to form comparisons within Ontario, much less with other smaller provinces. I would think it even difficult to find an equivalent state in the United States that would have the proportions that might be useful. To then say that the best we could do is get two bucks on each side of the balance, which is still out of kilter, is not very encouraging.

Hon. Mr. McMurtry: I suppose one has to look at the total funding picture to determine whether or not, on balance, the municipalities are treated fairly in the whole picture, as opposed to isolating one specific area of funding.

Mr. Breithaupt: That is true.

Mr. Elston: Are you personally satisfied that the imbalance is made up somewhere?

Hon. Mr. McMurtry: I have not examined the figures personally. But I accept at face value what is told to me by my distinguished colleague the Treasurer. I have no reason to question his word.

Mr. Breaugh: Could you comment on a couple of other areas I am interested in? One is the matter of the police RIDE program. There seems to be some controversy there about its legal status. If I recall it correctly, the RIDE program is out, but the officers are doing the same thing.

Hon. Mr. McMurtry: It is not out. As you know, the Court of Appeal unanimously—all five judges—reversed Mr. Justice Maloney's decision. It really boiled down to the issue as to whether or not a person had, as I recall, a valid reason to refuse the request for a breath sample. Was it a lawful request? The Court of Appeal ruled unanimously that it was a lawful request.

The policy decision has to be made in the near future whether or not it would be better to clarify the situation so there could be no confu-

sion, whether it would not be well to perhaps amend the Highway Traffic Act to make it clear that the spot checks are not under any legal club. I have indicated some interest in doing that. The decision came down two or three weeks ago as I recall. We just have not made it public yet.

Mr. Breithaupt: Is the justice policy group looking into that area? That was another point I wanted to raise in the appropriate estimates.

Hon. Mr. McMurtry: The two ministries are looking at it.

Mr. Breaugh: Are you convinced that the program itself is sufficiently important and effective to suggest that other pieces of legislation might be changed to clarify that?

Hon. Mr. McMurtry: It requires only a relatively simple amendment to the Highway Traffic Act.

Mr. Breaugh: The point I want to get at is that when we reviewed this in the select committee on highway traffic safety it was amazing to see the techniques used by different forces in different jurisdictions to try to eliminate drunk drivers from the road system. Every conceivable approach has been tried, and they all seemed to turn out the same way.

When you weigh the civil rights argument of an officer's right to stop you without real cause against the effectiveness of a program like reduce impaired driving everywhere, there surely must be some distinctions drawn. If you could conclusively prove, for example, that a program like RIDE is extremely effective over a reasonable period of time, that might be justification for fiddling around with somebody's civil rights.

Hon. Mr. McMurtry: I have no difficulty in my own mind. I think the greatest civil right that could be enjoyed by anyone using the highways is the belief that it is relatively safe to do so and that the authorities are taking reasonable steps to reduce the incidence of alcohol abuse on the highways. That goes to the heart of individual rights. There is no question that the studies that have been done on a region-by-region basis demonstrate a reduced accident rate where there are effective RIDE-type programs. They have been very worthwhile initiatives.

The question that has not been answered is, if RIDE programs become a fact of life on a day-to-day basis, whether or not over a long period of time the reduction that has been demonstrated will continue. We intend to encourage police forces to continue to use this type of program.

I personally think that although it is not, strictly speaking, legally necessary to do so, there is some merit in amending the Highway Traffic Act to make it very clear that police officers do have this authority. There is no question that it is an important initiative.

Every study I know of in the western world with respect to driving and alcohol demonstrates that the key ingredient is fear of detection. Although severe sentences have a role to play, the fear of apprehension tends to be a more important factor. People will read about the sentences, which are often not particularly severe from the law enforcement standpoint, but they do not have as much deterrent effect as some people think.

People who drink and drive tend to take the attitude, "Well, Charlie went to jail for 30 days, but the chances of getting caught aren't that great." All of the studies tell us to increase the fear of apprehension; otherwise, we will not have a significant reduction. This is why RIDE-type programs, in my view, are so important.

11 a.m.

Mr. Breaugh: My reading of the literature in that field is a little different from yours. I recall that a wide variety of approaches have been taken and all have ramifications about the allocation of resources and finances. For example, if every police force in the province decided that a RIDE program was the thing to do, and if every night they allocated officers to this kind of patrol on every major street in their jurisdiction, there would not be any resources left for anything else. It has to be a fairly effective program. My reading of the literature suggests that virtually any program will be successful initially. There is around it attendant publicity; it is a new idea and people are not sure of it.

In some American jurisdictions they took that concept to its extreme. The officers literally parked cruisers outside the doors of the pubs and aggressively sought out whoever might be getting into a vehicle in an impaired state. That had a dramatic effect for a short period of time. Then some evidence began to show of people leaving by another exit, parking their cars a block away or going home by a different route.

Another factor to consider is that somebody who is thoroughly inebriated does not think very clearly. Such a driver is unlikely to pause and think, "Gee, I might get caught going home tonight." More likely such a driver would be halfway home before thinking about it. The effectiveness of that kind of program is then drawn into question.

As I recall, one of the most effective programs was in the state of Oregon where they decided to mail warning letters to everybody. In the long term, that seemed to be about as effective as anything else. The short-term, RIDE-type programs, which had shown extremely positive initial results, over the longer term did not hold up.

Hon. Mr. McMurtry: As I said a few moments ago, what might happen in the long term has not yet been determined. But the RIDE programs have proved themselves to be very valuable and they will be encouraged in this province.

Mr. Breaugh: I am going to move to another policy area which I am sure has been the subject of your deliberations recently, namely, federal Bill C-53, which deals with rape charges. This area is not one where we have distinguished ourselves of late.

What kind of new policy directions are you setting out for police forces as to investigation and gathering of evidence in possible rape cases which would increase the possibility of our ability to enforce either this new law or other laws on rape? It is my understanding that the new law will make it somewhat easier to prosecute and will provide a clarification of terms, but that still leaves us with the whole police function.

Hon. Mr. McMurtry: That is still debatable. This is a matter that has been looked at by some law officers in the Ministry of the Attorney General.

Police forces, generally, have become more aware over the years of the needs of the victim and of the sensitivity which must be employed in these investigations, particularly as we know that an unfortunately large percentage of victims apparently do not complain to the police because they are concerned about being caught up in the process.

Police officers, generally, although not always, demonstrate a high degree of sensitivity in dealing with the victims. We know about the so-called kits that are being provided for the more effective gathering of evidence. One of the things I did early on as Attorney General was trying to eliminate what was happening in some of the larger centres, most particularly in Metropolitan Toronto, where, because of the large volume of cases, a complainant might deal with one crown attorney at a preliminary hearing and then another crown attorney might present the case at trial. Given the sensitive nature of the evidence, I did not think that was a wise way to proceed.

We have attempted to ensure that the crown attorney dealing with the case from the outset follows it through so that the complainant has some degree of confidence in the person she is dealing with, in view of the highly emotional nature of the whole unhappy matter. From reports we have had, I would say most police officers get pretty high marks for the way they treat the alleged victim.

Mr. Breaugh: The thing I find disturbing in this area of the law is that there are very often violent criminal acts taking place against those who are not in a good position to deal with them, for the most part, women and children. We do not seem to have found ways of investigating the crime or even of reporting the crime.

For example, if somebody mugged or physically assaulted one of the members of this committee, it would be a relatively smooth process and considered normal by all to call a cop. The police officer would arrive at the scene. His techniques for investigating and initiating a prosecution are relatively clear and well understood. But if that was a rape or the battering of a woman or the battering of a child, the reporting mechanisms are often awkward and the investigative techniques are often not as smooth as the victim probably thinks is reasonable. I would like to know what your ministry is doing to assist police officers and individual citizens in order to conduct effective investigations to lay complaints.

Hon. Mr. McMurtry: The whole business of victim justice is a matter that is occupying a fair amount of time within the justice policy field. It is a matter of particular interest to the justice policy secretariat.

I would like to editorialize for a moment with respect to this type of crime, particularly assaults against women. I consider sexual assaults to be particularly heinous crimes. I do not think there is any disagreement about that. The editorial comment I would like to make is that members of the committee who, for example, may be opposed to the government of Ontario's engaging in any form of film censorship should examine this issue very carefully. One of the major problems, in the view of an increasing number of people, with respect to assaults against women is the extent to which this type of violence has become a very popular subject with film makers. We tend to expect too much of our police forces, and when society tends to wallow in violence as entertainment, particu-

larly violence against women, then we have to accept the fact that people are going to be brutalized.

11:10 a.m.

When I think of this particular subject, I become very angry because it is absurd the extent to which we, as a society, have indulged ourselves in this type of entertainment. And anyone who attempts to curb it in any way is immediately saddled with the allegation of wanting to censor everything in sight.

In that context, I often think of the famous Pogo cartoon which said, "I have found the enemy, and they is us." I cannot think of another area where society as a whole has to accept such a very large part of the responsibility as that of tolerating what goes on in the entertainment industry, particularly when it comes to the so-called romanticizing of brutality towards females.

Some of the European countries, such as Sweden, that have been known for their rather liberal laws in this respect, are doing a very abrupt about-face because they now believe they have the hard evidence to demonstrate that this type of entertainment has added to this problem in a very significant fashion.

Interjection: Subject for a select committee.

Hon. Mr. McMurtry: It might well be.

Mr. Breithaupt: Perhaps even on violence in television.

Hon. Mr. McMurtry: I think that is something else. The late Judy LaMarsh was given very little credit for a very valuable study that was done. I think that some day, as a society, we are going to wake up and realize what we have accomplished in this area.

The simplistic response now is, "Well, let the police look after it." We create the problem as a society, a hopeless problem for law enforcement, given the extent of the increase in violence in the community generally, but when it comes to encouraging people to report assaults against women or children—and, as you know, a lot of techniques are being employed to encourage reporting—a good deal of the problem has been caused by human indifference to the plight of others. I do not think the police can be faulted for the fact that these crimes are not reported.

Mr. Breaugh: One of the things I find difficult to accept is this. We have just discussed two very serious policy matters. One is that the government has decided there are too many drunk drivers on the road.

Hon. Mr. McMurtry: I think society as a whole agrees there are too many drunk drivers on the road; it is not solely the government.

Mr. Breagh: I am not going to argue that point at all. In that instance, we decided that a law is being broken on a rather large scale, so the deployment of police officers on a RIDE program and the changing of laws are occurring. In its very simplest form a problem has been identified and the police forces of the province respond. There is an analysis of how they should respond and a deployment of the personnel we have and the techniques, the breathalyzers and all of that.

In the other instance, crime against women, which is equally violent, equally serious and probably equally widespread in its many different forms, we are saying we should stop showing dirty movies. I cannot find how it is that in one instance our society, our government and our police forces can move directly in response to an issue, while in the other there is such great hesitation.

Hon. Mr. McMurtry: Where is the hesitation? I do not accept that at all.

Mr. Breagh: Then explain to me your equivalent of a RIDE program to deal with sexual assault.

Hon. Mr. McMurtry: You suggest what would be the appropriate mechanism. Part of the purpose of estimates is to have a wide-ranging discussion about law enforcement when it comes to the Solicitor General's estimates. If you have a suggestion to make with respect to how police forces may be more effective in this area, we certainly would be happy to receive it.

No one in the Ontario Police Commission, the Ontario Provincial Police or the Ministry of the Solicitor General takes the view that we have all the known wisdom with respect to effective law enforcement. Often useful suggestions are made during the course of estimates that we pursue. If you can suggest a RIDE-type program that would reduce sexual assaults, I would be glad to hear it.

Mr. Breagh: Since you have invited it, you are going to get it. To deal with the problems in sequence, would it not be a sensible way of encouraging people to report, in the first instance, sexual assaults, battered children or whatever through some intermediary process like financing rape crisis centres, which we do not do very much?

We have begun to recognize that, but we have not begun to set them up. By and large, they are

volunteer agencies now and there is virtually very little professionalism in that field. Yet it is a crime, but police forces throughout the province are sitting in their police stations, almost totally disconnected with things called rape crisis centres, which have difficulty getting funding.

Hon. Mr. McMurtry: That is just not accurate.

Mr. Breagh: What is not accurate?

Hon. Mr. McMurtry: To my knowledge, the police in most areas where there are rape crisis centres do work very closely with them. There is a very close liaison between the police force and the rape crisis centres.

Mr. Breagh: Do they provide them with any funding?

Hon. Mr. McMurtry: I do not think that is the responsibility of the police forces. The government does provide some modest funding for the rape crisis centres. I think last year we provided \$300,000 in additional funding through the justice policy field. That figure seems to ring a bell. We certainly encourage the development of that concept. I can tell you that the crown attorneys and the police have been encouraged to work closely with the rape crisis centres.

You can say the government should be pouring a lot more money into supporting rape crisis centres. I do not disagree with that. Again, it is a question of just what resources are available. I think municipalities should be doing a lot more than they are in order to assist the funding of these centres which, I think, do play a valuable role.

I think part of the problem is co-ordinating our resources in a community. Some communities do not need a separate rape crisis centre, but they can utilize existing social service agencies and, of course, hospitals themselves should be encouraged to assist in this area.

All of these agencies do have a responsibility to encourage the reporting of this type of offence by providing a sympathetic, understanding ear, as it were, and giving counselling and advice to this type of victim. I do not quarrel for a moment with the need for this in the community, but I do not think the police have the responsibility of funding the agency or establishing it.

Mr. Breagh: Is it not a crime? This is the problem I am having.

Hon. Mr. McMurtry: When you are talking about the victims of crime, the responsibility of the police is to be available for anyone who

wants to report a crime. Police are not social workers, although they are often expected to perform as such. There has to be a limit and there is a limit to the expertise that police can offer when it comes to counselling as social workers or as trained psychologists, et cetera. A good police officer has to have many of these attributes, undoubtedly, but I think when it comes to providing that sort of assistance to victims any police force is going to have limitations.

11:20 a.m.

In the best of all possible worlds, maybe this will happen with increasing frequency in the future. We do know in certain centres, London, for example, there are family crisis teams where police officers do work with social workers dealing with crisis intervention in the family. I think this is probably a wave of the future where there will be the resources that will enable police forces and social agencies to work more effectively together when it comes to crisis intervention.

Mr. Hilton: If I may assist on that, in London and Hamilton experimental forces have been set up whereby trained social workers go with the police officer in the police car when there is a call in relation to brutality in a home, such as matrimonial-type problems which, strangely enough, are among the most difficult and dangerous for police to cope with.

Instead of just going in and quietening the situation down, the person who is trained and knowledgeable in that work stays on to try to bring some peace to the situation beyond the normal criminal-police-citizen-related crime. They can only be there when notice of the event has been brought to the attention of the police.

You likened this to the RIDE program. The RIDE program involves drinking, not in the home, not in the pub—not in that type of an establishment, but where it affects you and me as members of the driving public, on the streets. The crime of which you speak is a crime within the confines of a home.

Hon. Mr. McMurtry: It may be.

Mr. Hilton: It may be. If it is outside, then it is a matter of common assault. It is a matter of assault the same as any other assault, which will be fully investigated by the police if it is ascertained or reported in any way. But we cannot go up to every door and ask, "Is everything all right inside?"

Hon. Mr. McMurtry: I think it is an accepted

fact that the incidence of violence against women and children is much more frequent in the home than in encounters between strangers.

Mr. Hilton: As Mr. Trudeau has said, "in the privacy of. . ."

Mr. Breaugh: That seems to be my difficulty. I am trying to determine why in certain instances violent crime occurs and our police forces and, in fact, our society are able to deal with it—perhaps not too effectively, but there are no problems in dealing with it.

For example, if one man assaults another man, our police officers are trained in how to handle that situation. The investigation would perhaps be best classified as being routine. We know how to deal with that, but where the assault is against a woman, whether that might be rape or just a beating, or against a child, we have that difficulty.

How many police forces in this province—and we are into specialty policing these days where we have SWAT squads, fraud squads, ethnic squads and all kinds of squads—have a sexual assault squad?

Mr. Hilton: Sexual assault squads? Assault is assault and would be handled by the police as assault if it is brought to their attention. I understood your original concern was that while we seek out people who have been drinking and driving on the highway through a RIDE program, we do not seek out the incidence of assault against females. As far as I know, there is no way of the police finding out what goes on if it does not go on in a public place.

Mr. Breaugh: We are agreed on that.

Mr. Hilton: Yes.

Mr. Breaugh: We are in perhaps some disagreement on whether the reporting techniques are as reasonable as they ought to be. That is one major problem which I think can be resolved in a number of ways, but I do not see us doing that much in that area at any rate.

After the report takes place, how does the investigative process occur? Are we really equipping police officers to conduct that kind of investigation?

Mr. Hilton: Yes.

Mr. Breaugh: Would it be better to use female police officers to conduct those interviews in order to gather that evidence?

Mr. Hilton: Yes.

Mr. Breaugh: In all of this, we are just now beginning in Canada to talk about what changes

might be necessary in the laws, what different approaches might be taken. I am interested in finding out the police component of that.

What are police officers having suggested to them as being new techniques which might make it a simpler, easier and more rational process to identify that a violent crime has occurred and to increase the prospects of eliminating that violent crime?

Mr. Hilton: The police college has special courses.

Hon. Mr. McMurtry: Apart from courses at police college, the police forces, which had tended to be male bastions, should continue to be encouraged to hire more and more women. I personally think that is a very worthwhile and important initiative for the reasons you state. I was happy to see a certain number of women in a Metro police college graduating class I spoke to last week.

I agree with you. I think if there are more women police officers, that will improve the situation relating to the reporting of criminal assaults against women. Probably it would encourage women to report these assaults more frequently if more women police officers were available. I am certainly not an expert on the subject but I rather believe that would be the case.

Mr. Breagh: Can I just move to one final area?

Mr. Hilton: Pardon me, Mr. Breagh, before you go on to that. The minister did allude to the fact that the police college is, as the whole police community is, increasingly aware of the concerns you have expressed. In the training of officers, from the elementary stage up and through the advanced training they can get on returns to the Ontario Police College, greater emphasis is being laid upon the psychological aspects of policing, that is, the handling of traumatic situations, usually involving women.

As the minister has said, it has been a male bastion in the past. We are concerned. The college is emphasizing to new police officers the growing concern they must have in discharging their duties.

Mr. Breagh: Basically, it gets back to that problem that our police forces are equipped to handle some kinds of crime and are relatively awkward at handling other kinds of crime, particularly crimes against women.

Mr. Hilton: We are getting better.

Hon. Mr. McMurtry: Again, I think it is important to emphasize there is a much-increased

emphasis in this type of training at the Ontario Police College and at the municipal colleges as well.

Mr. Breagh: For example, it was only last year when the medical association prepared its kit and began to resolve those questions concerning the gathering of medical evidence. We went through long arguments about physicians who said, "No, we will not do that kind of work for the local police force." There was no standardized procedure on how to gather the evidence. There were even arguments about how to pay the doctor for providing his services.

There is a relatively new process where those kits are available, where the gathering of evidence has been acknowledged as something which ought to happen and a determination about who pays the doctor for the gathering of the services.

11:30 a.m.

To use another analogy, police forces gather fingerprints all the time and develop forensic units and specialist teams within their own municipal forces to gather evidence. But in the case of a sexual assault, that is a very recent phenomenon.

Mr. MacQuarrie: The minister alluded also to the importance of hospitals in this connection, out-patient departments particularly. If we had trained workers ready to recognize and physicians competent in the field to get whatever forensic evidence is available, that certainly would be a big step along the way.

Mr. Elston: In acknowledging that his feeling is that female officers might be more effective, or at least provide an advantage, in accumulating evidence in an investigation like this and maybe even in the first-stage reporting by the victims, I wonder if the minister is making some effort to recruit more female officers for the colleges, or if he is making efforts to help metro areas, in particular, form special units of female officers to investigate this type of assault.

Hon. Mr. McMurtry: It is up to the individual police force. We cannot dictate recruiting policies. There is no question, and I think it has to be recognized, that until recent years not very many women have been interested in pursuing a career in policing. This is a relatively recent phenomenon, with many more women pursuing this career. Some of us, for example, could recall very well law school classes that only had a handful of women in my time. Now the new law classes are probably 34 to 40 per cent women.

There is an increased number of women joining police forces. We all agree it is a good thing. It is going to take a little while before we have a sufficient number of women to be able to advance to the point where they will be playing an important role with respect to investigative responsibilities which are often assumed by the more experienced police officers.

Mr. Elston: In many ways, it gets back to the funding programs for these municipalities as to whether they are able to pursue that sort of setting up of either funding for the rape crisis centres, which Mr. Breaugh has mentioned, or setting up special teams of investigative officers.

Hon. Mr. McMurtry: Certainly the police budgets are large and there is nothing to discourage municipalities from doing that. It really comes down to what the local municipal taxpayer is prepared to support. It is not just a question of saying "Let the provincial government give us more funds so that we can do these things." I have to think that there is a local responsibility, too, to determine what the priorities are and whether the local taxpayers are going to pay for them.

Mr. Hilton: I have been advised by the director of the Ontario Police College that the college trained and passed 122 ladies last year as trained police constables. This is for a variety of forces.

Hon. Mr. McMurtry: There was probably a very dramatic increase over what it would have been five or 10 years ago, I would think. Mr. Swanton, you might come up and sit up at the front here. He is the director of the Ontario Police College at Aylmer.

Mr. Swanton: Mr. Minister, I would like to say that the problem of the ever-growing number of policewomen coming for training at the Ontario Police College is causing the administration a little difficulty because the college was not built to accommodate ladies. I am wrestling with this problem because there are more and more policewomen coming to the college for their training.

As the minister has indicated, we did pass through 122 lady recruits last year. These are simply recruits. It does not indicate anything except that we are getting an increasing number of them. This week we have 20 lady recruits on the base out of more than 250 recruits that we are presently training.

Mr. Breaugh: So 122 women graduated out of how many people?

Mr. Swanton: The number of recruits that we trained last year would approximate almost 2,000 in various stages.

Mr. Breaugh: There is still a piece to go, as they say, a long way to go.

Mr. Hilton: On the other hand, Mr. Breaugh, it is just the same as recruiting in other ethnic situations. I may be raising another question.

Mr. Breaugh: Do not forget that women are the majority in society.

Mr. Hilton: I know.

Mr. Breaugh: Do not call them a minority. I used to do that until I got assaulted about it and saw the error of my ways.

Mr. Hilton: What I am saying is that not that many women come forth and seek police occupations. We are glad when they do and are capable and have the physical requirements.

Mr. Breaugh: Is not part of that difficulty in recruiting women as police officers the fact that there is not a clear and distinct role there? I am not sure that the public at large sees that really. I am really oversimplifying this, but the police officer still has that kind of wild west, gun-on-the-hip image, and everyone is working like mad to break that down. If you take it in its simplest form, in the case of the people I know who are police officers, the expectation is of someone who could break up a fight if he had to.

Mr. Hilton: Yes. I was down at the police college graduation—not the last one, but about two ago—and I was horrified to see these relatively small and primarily good-looking gals take a great big guy and just throw him down like that. I commented on what they were doing for the marriage of those women if they can manhandle their husbands that way.

Mr. Breaugh: That could do a great deal for the marriage.

Mr. Hilton: It was just amazing what these girls could do in unarmed combat, training them for normal police duties on the street. And I suggest that none of us goes up and tackles any of those girls or we will come out second best.

Mr. Breaugh: I think you are simply establishing that without question women can do the job equally as well as men. If there was some growth in activities which a police officer could specialize in—and I am making an argument here that there are a whole raft of issues that have to do with women—then women would be the logical choice to lead that development and that growth. Perhaps our police forces, in general, might be

able to cope with society's problems much better if there was a much higher percentage of women who were police officers.

Mr. Hilton: If we can recruit them, we will.

Mr. Breagh: The last area I want to deal with this morning in the main office vote is the matter of civilian review of complaints against the police. I want to exclude from that what you are doing or what you are proposing in Metro Toronto. You said on a couple of occasions, if I recall, earlier on in the last parliament when you proposed this legislation that this might have some connotations, if not become a model for the rest of the province. Now I understand you are saying that the legislation being proposed to be used in Metro will not necessarily be a model. What is the current status of the ministry's thinking about a mechanism to review complaints against police officers around Ontario?

11:40 a.m.

Hon. Mr. McMurtry: You have to bear in mind the fundamental principle of local autonomy with respect to the administration of police forces. We do not dictate to local communities how to administer their police forces. We like to encourage certain uniform standards. I think it should be borne in mind that every police commission should be able to function as a civilian review board when it comes to the issue of complaints against the police. They are civilians and at least one, or in larger commissions two, are locally elected individuals and they should be able to function as a civilian review panel.

Under our established procedure, citizens who are not satisfied with the handling of a complaint by a local board of police commissioners can complain to the Ontario Police Commission, and do. I might say this system works very well in British Columbia, for example. I mention British Columbia because I think it was established under Mr. Barrett's government. The BC police commission works quite well in the ultimate resolution of civilian complaints against the police.

In Metro Toronto, with a large pluralistic population, the Board of Commissioners of Police simply recognized the fact that the volume is too great for any board or commission to handle to the extent to which they would like to see it dealt with. Also, given the nature of Metropolitan Toronto, the board believes that in the minds of many citizens, although its members are civilians, they are so closely identi-

fied with the police force that it is better to establish a more independent body to deal with these complaints.

Whether or not other communities will be interested in developing similar models remains to be seen. We are dealing with a pilot project in Metropolitan Toronto, one which already has attracted a fair amount of controversy. There will be a number of people on all sides of the issue who will reserve judgement until it has been functioning for a while to make an assessment of its effectiveness or otherwise.

We are dealing with legislation that is presently before the House to establish a pilot project, legislation that is admittedly quite controversial. A lot of people do not think we should introduce it at all. Many people feel it should go further than it does. We are all aware of the issues. This committee will probably, at some point, be dealing with the legislation. I expect that will be as soon as it passes its second reading this time around.

Given the fact that it is a pilot project, the viability of which has to be assessed, it is just too premature to speculate as to whether it would be appropriate in other parts of the province. I had told the police governing authorities on several occasions that they are, and should be able to function as, independent civilian review boards when it comes to dealing with citizens' complaints.

This civilian review presently exists in every community, whether it has a board of police commissioners or a committee of council. The effectiveness with which they have functioned may vary from community to community. I have said we have no plans at the moment to extend this project beyond Metropolitan Toronto because we have not succeeded in even getting it in place in Metropolitan Toronto.

As the Deputy Solicitor General reminds me, this project really came into being as a result of a request from the Metro council and the Metro police commission.

Mr. Breagh: So it will be status quo for the foreseeable future?

Hon. Mr. McMurtry: Yes, but depending on what the citizens in the individual communities want. We do not think we should impose our views on the citizens of each individual community when it comes to this type of mechanism.

Mr. Breagh: Are you proposing that in the future you would only react to requests from various boards or councils around the province,

that you would not seek to put into place this kind of process or a variation of it on a province-wide basis?

Hon. Mr. McMurtry: That is correct. We would like the citizens of the province to have an opportunity to become more aware of what is available through the Ontario Police Commission. Part of the problem has been a lack of awareness that the Ontario Police Commission does have this responsibility. We are optimistic that when this fact becomes better known, the commission will satisfy most people that it can function effectively in this area.

Mr. Breaugh: I will leave you alone on that one.

Mr. Williams: Mr. Minister, I would like to spend a few minutes on that area of the vote dealing with emergency planning.

First, I think back to a year or two ago when one of the select committees of the House, Hydro affairs, was somewhat involved in the Three Mile Island nuclear incident in the United States and its ramifications as they pertained to Ontario. As you know, the committee spent some considerable time working with the government to put into place some type of emergency organization that would deal specifically with nuclear contingency plans, particularly—I guess exclusively—in the area of offsite planning.

As a result of that incident which attracted worldwide attention, particularly in Ontario because of our close proximity to the area, I recall that the government responded very quickly and we dispatched people to Three Mile Island to study the situation specifically in relation to the potential hazard from contamination of the environment.

At that time the committee happened to be talking about the whole matter of safety of our own nuclear reactors in Ontario. While this particular incident occurred in another country, it certainly accelerated the interest and concern of the committee in the matter of safety in this field.

11:50 a.m.

All members of the committee as a whole were somewhat impressed with the quick manner in which our government responded, as far as monitoring the situation was concerned, to ensure that the citizens of Ontario were not in any way exposed to any hazard, immediate or potential. At the same time, this made us aware of the fact that we had never before been put in

a situation where we had to respond in that fashion or consider setting up facilities to the extent they were subsequently.

Having been a member of the committee at that time, I recall that all the ministries responded very quickly through a co-ordinated effort. I believe the lead ministry was the Ministry of Labour. The Ministry of Health, your own ministry, the Ministry of Labour and others were pulled together in an effort to implement a co-ordinated organizational structure that was deemed to be absolutely necessary, but not necessarily to be maintained on a full-time and permanent basis.

It was my recollection that while the structuring was put in place, it was done on this ad hoc basis and that there are facilities available in one of the government offices downtown that, in effect, can now be commandeered by you to put an emergency operation into play. I believe it is from offices of the Labour ministry, but I am not sure.

Hon. Mr. McMurtry: The OPP communications network would be used in an emergency for obvious reasons. There are facilities for that in the OPP headquarters. We do have an emergency planning co-ordinator now.

Mr. Williams: Yes, I realize that and it is this very point I am drawing to your attention. One of Mr. Kirby's main functions and roles is in this area to ensure that the nuclear contingency plans are kept at a high state of readiness.

I would like to determine what the current situation is. I clearly recall that while the facilities were set up and could be operational within a matter of hours in the event of an emergency, at the same time it was determined that there would be full-scale mock emergency situations carried out on a regular basis to ensure this state of readiness was retained at all times. Could you bring us up to date, if you feel it is within the purview of your ministry, and give us a full accounting of where we are at the moment in this area? Has there been a mock emergency since last year?

Hon. Mr. McMurtry: We have had these demonstrations in a partial respect, both offsite and onsite, the most recent one being with respect to an onsite mock emergency situation. We have also had a limited offsite one. So far as a full-scale one is concerned, we are working towards that. We believe we have the capacity to carry it out, but actually to go through the exercise is a major assignment.

Perhaps Mr. Kirby could bring the committee

and Mr. Williams up to date. He has been the emergency planning co-ordinator on a full-time basis for many months now and has been working closely with all the ministries of the government that are involved. This involves most of the ministries in some capacity or other and municipal governments. It might be of interest, if you would like, Mr. Williams, if Mr. Kirby were to give you an overview of what he has been doing.

Mr. Williams: Yes, I certainly want to pursue it and see what is happening with regard to that liaison with other levels of government, as well as what is happening within our own government.

Mr. Kirby: I think the first step that was carried out after Three Mile Island was the construction of a province of Ontario nuclear contingency offsite plan. That plan was not entirely new. There had been plans and there had been arrangements at the nuclear plants and around them before that. There had been exercises of the plans and arrangements before the current plan was constructed and approved by cabinet. This really is a primary focus in the emergency planning area and involves three main areas, Pickering, Bruce and the Ottawa Valley.

The plants themselves have full onsite responsibility. In their licensing they also have a responsibility to connect very closely with their neighbouring municipalities and to ensure that they are able to pass information of any offsite contamination or effects, or the possibility of such contamination or effects, to those municipal authorities very quickly and to ensure that those municipal authorities are in a posture to respond adequately in their own areas.

Over and above that, once an incident has occurred the province enters the picture on the ground as quickly as possible and takes over from the plant the role of providing technical information to the municipalities on which the municipalities can carry out the response actions required.

Mr. Williams: My recollection is that one of the major decisions that had to be made at that time was whether or not they would set up permanent facilities and staff for this emergency task force. The alternative would be to do it on an ad hoc basis, whereby the plans were set up and the manpower resources and facilities could be made available, virtually in a matter of hours, at some location within government facilities, but there would be no permanent facilities established and manned on a 24-hour, seven-day-a-week basis.

I think that was a major decision that had to be made, and they opted for having the contingency situation available where all of these resources could be called into play at the appropriate time. I presume that is still the situation.

If that is correct, could you just run through with me the sequence of events that would transpire once an emergency call came up? Say a phone call came in from Bruce today, what is the sequence of events that would transpire as soon as you got the call?

Mr. Kirby: On the first question, some of the resources, to use the more general term, are permanently in place. For example, there is staff permanently on duty at the plants. That staff is trained to a very large degree, and quite comprehensively trained in the sense of the numbers of people available, to respond not only onsite, but in the measurement and survey role offsite and in the responsibilities of the plant. So there is a permanent staff in that sense and it is represented on duty 24 hours a day, 365 days a year. That is permanent.

12 noon

There is another permanent element in that the provincial emergency control centre is located in the general headquarters of the OPP. That communications mode is permanently manned. It is basically through that centre that the response organization is warned in the event of an emergency. The emergency control centre is permanently available and in a state of readiness at the OPP headquarters. There is a sort of sister facility, the provincial communications information centre, located in the Ontario Hydro building, but, in the event, that becomes a provincial facility.

If there is a real or apprehended incident at a plant, the shift supervisor takes charge of the situation immediately. He is on duty at the time and takes charge. He warns, first of all, the plant people and then the municipal people so that they can bring their organization into action quickly. He also warns the Atomic Energy Control Board.

After that, in direct sequence, he warns the Ministry of Labour and the radiation protection service. In consultation at the provincial level with the radiation protection service in the Ministry of Labour, a connection is formed. The Ministry of Labour warns me in my responsibility for the control organization at the provincial level, and I immediately warn the Solicitor General and the Deputy Solicitor General that an incident, real or apprehended, is under way.

As soon as a decision is made that there is in fact an incident which has or may have offsite effects, we activate the control centre to bring into operation a large number of ministries, some of which are on the technical advisory side and some on the operational side.

Mr. Williams: The control centre itself would be in the Ministry of Labour building?

Mr. Kirby: The control centre is at the headquarters of the OPP.

Mr. Williams: It is at the OPP headquarters as a communications centre, but you say the control centre is there as well?

Mr. Kirby: Yes, it is a control centre.

Mr. Hilton: Mr. Williams, it is just like a war room that is set up with maps and charts, telephones, telexes and all those things that are necessary.

Mr. Williams: It is my recollection that the communication centre stayed with the OPP, but that the actual central control would be set up in the Ministry of Labour offices where they have a floor they could convert very quickly to emergency purposes.

Mr. Hilton: This is a dedicated room, Mr. Williams. That was true in the first exercise. Since that time the structural changes have been made, the telephone lines and telex communications system have been put in and the maps and desks are all there. The whole war room complex is established and in existence, sitting there waiting on Harbour Street.

Mr. Williams: There is a point I would like to pursue if you have finished giving me the sequence of events. I do not want to interrupt, if you have not finished.

Mr. Kirby: The sequence of events is that the plant is warned, the municipal authorities on the periphery of the plant are warned and the provincial authorities are warned. As far as operations are concerned, the plant is responsible for providing to the municipal authorities the immediate technical situation and the response which should fall upon them. The municipal authorities are then responsible for taking the response action required on that advice. That is the first part of the sequence.

When the field survey organization, headed by the Ministry of Labour but also comprising people from Environment, the Atomic Energy Control Board and any other sources of technical survey resource, is in place around the site, then the province, in communication with the control centre, takes over the advisory role and

directs the municipality as to what its response actions would consist of. That, basically, is the sequence.

Mr. Williams: Over and above establishing a line of communication with the local municipalities and all the different provincial ministries which would be involved, I recall there was to be an educational and organizational program with the whole communications field, including public broadcasting stations, the radio and television networks and so forth, to work out some arrangements.

They were to be very much a part of the process necessary to advise the public of any emergency situation that would arise. What steps have been taken in that area? Has there been some committee set up to work with those commercial broadcast facilities?

Mr. Kirby: As for advising the public what response they are expected to take, the connection between the plant and the local communications media, municipalities and the province is all part of the plan. The media are very directly involved in the first priority of communications, which is to communicate the requirements for action to the public involved, with the information side of communications being the secondary, but still important, part of that.

What we have at each level is an onsite communications centre, which stays in action as long as it is required. There is a communications centre adjacent to, and working in conjunction with, the municipal control centre. We have exactly the same organization at the provincial level with the control centre at the OPP headquarters and the information centre in the Ontario Hydro building.

The idea about communications—to prevent the confusion of conflicting authoritative advice, information and direction, which was the situation at Three Mile Island—is that the information put out at each level of information centre to the affected public is controlled by the control centre so that it is truly authoritative at every level. With the three or more levels of control centres and information centres in contact with each other, we attempt to keep the information flow consistent throughout the system.

In the last exercise, in April, which was a major exercise involving the Pickering plant, the Durham region and the provincial elements, we had the provincial information centre in

operation; we had a press conference; and we had the place manned and information available on a 24-hour basis.

Mr. Williams: You are speaking of just last month?

Mr. Kirby: This was at the end of April, yes. Maintaining consistency in the information system is a major part of the operational structure.

Mr. Williams: Is this the first major demonstration project you have held in six months' time? How regularly were you scheduling these demonstration projects? It is my understanding, and I think it is the minister's from what he has said, that it was in the design of things that there be provision for somewhat regular exercises; that there need not be an emergency situation in order to activate your people in a truly emergency situation. But on a more or less regular basis, it was my understanding that every three or four months there might be a mini-demonstration or mock situation, while once or twice a year they would have a major one, such as you have referred to in April.

12:10 p.m.

Mr. Kirby: There is a regular exercise schedule required in the provincial plan and we have a schedule of exercises drawn up. What we try to do with each plant over about an 18-month basis is to have a seminar, a minor exercise and a major exercise. In 18 months, we would attempt for each site to work on a schedule like that. Basically, we work on three major sites. That will produce a fairly high frequency of exercises, although it will not be too high, we hope, in each local area.

Mr. Williams: What is a minor exercise comprised of again?

Mr. Kirby: The definition is not particularly specific, but basically a major exercise comprises all elements of the response system—provincial, municipal and operator. A minor exercise may involve participation at the three levels, but probably at least one of them will only be represented by a very small team, not by the whole organization. In other words, it is the sort of level of participation at each grouping that indicates whether the exercise is major or minor.

The seminar is just a discussion of plans, an updating of plans and an attempt to make sure that the levels of preparation reached are maintained. That is a somewhat difficult area. People change, situations change, perceptions of threat change and so on with quite surprising frequency.

The mixture of seminar, where you can discuss these things in detail; minor exercise, where probably key people only are involved; and major exercise, where not everyone is involved, but as far as possible on the largest possible scale all elements are involved; appears to be a satisfactory way of developing the readiness posture.

Mr. Williams: Have any of these three levels of activity involved so-called experts from out of town? Have you seen any wisdom in bringing in people from other jurisdictions to see what type of mechanism they have in place or whether they have any? Have you sought outside advice, just from an observer's point of view, to see how you operate for purposes of eliciting constructive criticism as to any weaknesses in the system or any differences from other systems that are in place? Have you seen a need for any comparative activity in that regard?

Mr. Kirby: I see a very strong need for it. There are, in fact, 30 regular and systematic comparative planning processes. For example, AECB carries out such a process on the international level and, as they are involved directly in our planning and response process, particularly in the licensing field, we are in frequent contact with them about this very subject.

There is a good deal of connection with the American authorities, who had not been particularly productive, but will become more productive. I think the reason for that is that the American authorities had been in a state of considerable reorganization in the last several months and are just reaching a stage where that reorganization is being completed and the products of that reorganization are beginning to flow. AECB is in very close touch with them and the international community and there is a comparative discussion going on all the time.

For example, our provincial nuclear contingency plan and particularly our working arrangements with the plants, municipalities and the province are fairly sought-after documents and experience on the national level for AECB and the international level as well. We provide the documents to international discussions with some frequency.

Mr. Williams: Where is most of the international interest originating? Is it in the European community or beyond that again?

Mr. Kirby: I think interest is fairly general. Our most direct international interest is with the Americans. I was invited to an international conference on this very subject, the response

mechanisms and plans, to be held in Paris this spring. I have forgotten what the organization is called, but it is an active and permanent organization.

Mr. Williams: The OPP is a very important component of this whole operation as far as security goes and ensuring there is orderly movement of people in the event of an emergency. They would play a very vigorous and important role in this respect.

I notice in the budgetary figures about \$140,000 has been allocated for nuclear emergency planning. I do not have the comparative figures against last year. Is this a rather stable cost figure that applies against that particular area of your responsibility or has this accelerated somewhat over previous years?

Mr. Kirby: No, my office consists of myself, an assistant and a secretary. We are coordinators. The costs are very stable indeed and will remain so, as far as I can see. Any projects and so on will probably be carried out by the various elements of response—by Hydro and by the municipalities, for example. In fact, I do not see the costs becoming unstable or particularly varied.

Mr. Williams: That particular budgetary item relates strictly to your personal office and staff—

Mr. Kirby: Yes, it does.

Mr. Williams: —and other much broader costs are allocated to different ministries that would be playing their role in the matter, the OPP or whatever.

Mr. Kirby: Right.

Mr. Williams: Thank you very much. Those were the basic questions I had on that specific function of the emergency planning office.

Coming to the broader situation, Mr. Minister, you had indicated in your opening statement that emergency preparedness on a broad base—not just this particular area of nuclear contingency but in the broader area—was something that was receiving considerable priority from your ministry, and I think it should. I guess the Mississauga incident just highlighted the need to have such emergency capacity available in any given situation, not just nuclear or railroad derailments or whatever.

You indicate with regard to emergency planning matters that there has been a positive response from the municipalities to indicate that they would like to play a bigger role and have greater powers in emergencies. I think you point out complexities here, but that you have

an emergency planning proposal in your discussion paper to be available and put forward preceding specific legislation. Could you just bring us up to date on where we stand on that regard at this time?

Hon. Mr. McMurtry: We will have what you might call a white paper which will be off the press perhaps within the next week or so with draft legislation attached. It will be circulated to all of the municipalities, any other interested groups and, of course, members of the Legislature.

I hope there will be some support for the draft legislation, but we would be very happy to receive any useful suggestions with respect to possible improvements to the legislation. That will be ready for circulation, we hope, within the next week. We hope we will have the appropriate response over the summer and that we can introduce legislation in the fall.

12:20 p.m.

There seemed to be a fair amount of misunderstanding about what this legislation was seeking to accomplish when we had the conference last fall, which was very well attended by municipalities from across the province. So we thought this white paper with the draft legislation would be a useful part of the process. It should perhaps have gone out earlier. It would have gone out earlier if there had not been an event earlier this spring that delayed it because we were putting the finishing touches to the white paper.

The legislation we are proposing is going to clarify what the various roles are when it comes to actual emergency plans, not making it mandatory in the legislation specifically for every municipality to have an emergency plan but allowing the Lieutenant Governor in Council to require by order in council specific municipalities to have an emergency plan.

Obviously, many municipalities, and perhaps the majority of them, want to have their own emergency plans, but it may be that we have to require, by regulation, that specific municipalities we think should have emergency plans but which are dragging their feet do have them.

Again, we do not want to appear to be necessarily dictating this to municipalities when we recognize that most municipalities are well aware of what is involved. Of course, many municipalities have put a lot of work into it already. There is no question that the success of the operation in Mississauga was due largely to the fact that the police force in the local municipality did have an emergency plan.

Mr. Williams: Do you foresee the role that the emergency planning office has being expanded to at least have the facilities available to ensure that there would be accountability to them from the municipalities that they had in place, as I understand your remarks, arrangements that would meet certain minimum standards or criteria that would be expected of them under this legislation?

Hon. Mr. McMurtry: There is continuing liaison with all the major municipalities. The degree or sophistication of any particular plan will vary with the size and location of the municipality. Many municipalities may not require anything that is particularly elaborate, depending on the character of the community, but our main purpose is to provide advice, assistance and encouragement rather than to necessarily dictate to any individual municipality what the requirements are.

Mr. Williams: I had taken from your earlier comment when you suggested an order in council would go out to municipalities indicating what they—

Hon. Mr. McMurtry: No, not in the legislation. This is just draft legislation that will be seen in a week or so. We will retain the authority to designate certain municipalities for which there will be a mandatory requirement to have a plan.

Mr. Williams: That is what I understood.

Hon. Mr. McMurtry: But we hope it will not be necessary to use that section.

Mr. Williams: Just to wind up, in that situation I gather that those municipalities of a certain size, having the need to meet certain minimum standards that would be spelled out by this act, would have to be accountable. Would that accountability be through your emergency planning office? How would that be structured? Or maybe you do not want to give it in detail.

Hon. Mr. McMurtry: Yes, that is my recollection. I do not have the draft legislation in front of me.

Mr. Williams: We will look forward to seeing the white paper when it comes forward. It will be issued before the House recesses?

Hon. Mr. McMurtry: Yes.

Mr. Chairman: Are there any other questions with regard to vote 1701, item 1?

Mr. Bradley: I would like to make a comment. Having listened to some of the members—it is their prerogative and that is the way it should

be—I think, having discussed it with my colleagues, Mr. Chairman, you have allowed people to wander all over the map on item 1 but you were not prepared to entertain my questions on item 1.

I agree with the member for Oshawa (Mr. Breaugh). He dealt with a number of different items, and that has always been the tradition. Other members also had the opportunity to deal with a number of different items. But it seems that I used a bad word when I used the word, "Re-Mor" or "Astra Trust." You did not permit me to proceed.

You have indicated that this matter could be discussed under item 4, if we ever get to item 4. Because other members are interested in other items, I don't know how members of the committee would look at using a time allocation for the various votes. It has been done on other occasions. I remember in Consumer and Commercial Relations estimates we always used to run into the problem of never getting to the liquor act because it was at the end or something like that.

I would like to get some quick opinions from members of the committee on the possibility of allocating equal time to each of the votes, 1702, 1703, 1704 and 1705, so that members who have questions on these will be sure of getting them on. Ordinarily, the way we have done it is a member would just go on this vote and get them on and the chairman would wink, or something of that nature.

If we are going to deal with those matters specifically, perhaps it would be a good idea to have a time allocation for each of the other votes. If Mr. Piché wants to talk about the OPP—he indicated that some time ago in the House with his long question—we would have the opportunity of knowing that we are going to actually get to that vote and that there will be some time for it. Perhaps other members of the committee would like to comment on that.

Mr. Chairman: First, on your remark, Mr. Bradley, that I permitted members to wander all over the lot, no. Mr. Breaugh referred to policy. If you look at page 12 of the estimates, generally he referred enough times to policy and used the word "policy", so he stayed within the bounds of page 12. Mr. Williams restricted himself pretty exactly to the emergency planning office which is on page 14 of the estimates briefing book.

Therefore, I do not believe I let them wander all over and certainly not as far as you attempted to take us. That is my answer to your first comment.

Mr. Bradley: I do not want to get into a long argument about it, but it is quite obvious to me—maybe it isn't obvious to others—that there was a lot of latitude given, and that is the way it should be. I agree with your giving latitude, but I think they did wander all over the map. You and I are not going to agree on that; I'll accept that.

Mr. Breaugh: I might suggest, Mr. Chairman, that the one thing we have not done is order our business a little bit. If I might make a suggestion to you, we could probably get through this first vote today. I do not sense there are a lot of other members who want to raise issues, or at least they have not indicated that so far. If we take as a rule of thumb that tomorrow we would go through 1702 and 1703, that would leave Friday morning for the last two votes. If that is agreeable, we could have a gentleman's agreement to proceed in that way.

12:30 p.m.

Mr. Breithaupt: How much time is available to the committee? We have another half hour today.

Clerk of the Committee: At the end of today's proceedings, we will have approximately four and a half hours.

Mr. Breaugh: So Thursday and Friday would conclude it.

Mr. Chairman: And probably over into Wednesday. I do not think we would get it over this week. We would not get four and a half hours over tomorrow and Friday.

Mr. Breaugh: We might.

Mr. Breithaupt: Is there anything further that is to be particularly discussed in vote 1701? We might be able to carry that and move into vote 1702.

Mr. Breaugh: I would be prepared to move that vote 1701, item 1 be carried.

Mr. Chairman: Mr. Breithaupt's comment was more of a question. Mr. Williams did ask to speak a moment ago. I interrupted him.

Mr. Williams: Just to confirm for the record what you have said, I think Mr. Bradley's observation that the members have been allowed to ramble, contrary to your ruling, is inconsistent with the facts. Certainly I restricted myself to the one item, as you have indicated, which was clearly within vote 1701.

While Mr. Breaugh had a little more latitude and went for a couple of hours, he did stay basically within that framework. So you have handled that ruling very well, Mr. Chairman.

Everybody who spoke this morning abided by it too. As for Mr. Breaugh's suggestion with regard to the handling of the remaining votes, that makes eminently good sense.

Item 1 agreed to.

Items 2 to 8, inclusive, agreed to.

Vote 1701 agreed to.

On vote 1702, public safety program:

Mr. Chairman: Mr. Breithaupt, do you have a question?

Mr. Breithaupt: Only to say I have several questions with respect to the coroners' portion of this vote, but I imagine my colleague has some comments generally on the fire marshal. I am sure it is an area in which we are all interested because of the recent reports, the inquests and the policy development.

Mr. Elston: How do you want to work that, Mr. Chairman?

Mr. Chairman: Normally, there is a certain order of priority, the Liberals being first.

Mr. Breithaupt: Could I suggest, Mr. Chairman, that possibly since these matters of the inquest and the changes of law and the other results have been somewhat canvassed in the Legislature and the press, we could agree to deal with the fire marshal's portion of the vote before one o'clock. Then we would get on with it unless others have lengthy comments to make.

Mr. Chairman: Is that satisfactory to the committee? Yes, there is a consensus.

On item 3, fire safety services;

Mr. Chairman: Would the Liberal lead off first, please?

Mr. Elston: In terms of the fire marshal's office, it has come to our attention that the fire marshal is now going to assume responsibility for fire safety inspections. The one item that concerned me somewhat was that at the time the announcement was made there had not been sufficient officers put in place to deal with that assumption of new responsibility. I am wondering if the mechanism has now been put in place to accommodate the increased load on the fire marshal's office so that this responsibility can be changed over into his care.

Hon. Mr. McMurtry: The decision has been made. The transition is moving along and is going to involve some shifting of personnel internally, starting with some of the people who have been involved in liquor inspection and who have been trained in fire inspection. They will be operating now full-time as fire inspectors

with duties limited only to fire safety inspection. There is going to be a significant shift of personnel internally quite apart from any additional staff. That is not in place at the moment. It is going to take a few weeks to sort itself out, but the process is under way.

Mr. Frank Wilson, who is the assistant deputy minister in charge of this branch of the ministry—fire safety—is with us now together with the fire marshal on his left, Mr. John Bateman. I do not know whether he would like to give us a preliminary report as to how much progress we have made since we made the statement publicly that this was what we were going to do.

Mr. Wilson: The decision having been made, the first issue to be determined was what staff would be required. We are in the process of making that decision now. The second point was to arrange for office accommodation because it will increase our staff substantially to carry out this program. We are making substantial progress on the training program that these inspectors will be given.

The fire marshal can speak in detail on that in a moment, but we are developing courses so that these inspectors will have the special training, knowledge and capacity to carry out this responsibility. The staff organization is another matter that we have made progress on, the organization as to regions that these inspectors will be in. We have also made considerable progress in the reorganization of the fire marshal's office.

Mr. Mitchell: Excuse me, Mr. Chairman, may I ask the gentleman to please speak a little louder?

Mr. Wilson: I am sorry. We have also made considerable progress on the organization of the fire marshal's office as to the supervisors because, as you may know, we have had some capacity with regard to hotel fire inspectors up to now. We did have five that came to us some years ago. This has required the fire marshal and his supervisors to develop a new process to enlarge his program.

With regard to the office accommodation and the training, we have made progress and it should not take us too long to implement that program. There has also been considerable progress made in developing liaisons with the hotel industry. There will be courses held as early as June of this year in Toronto involving the fire marshal, inspectors and officials and the hotel industry.

Throughout the summer there will be other

courses developed for hotel personnel. The earlier courses I referred to were for management and supervisors. As you know, it is important in this program to have everyone in the hotel aware of fire safety—the cleaners, the bellboys, the housemaids. Everyone has to have a responsibility in this program if it is going to provide protection for people who use these institutions.

That initially is my response. It may be that the fire marshal, Mr. Bateman, can give the committee a little more intimate detail on how this program will be implemented.

12:40 p.m.

Mr. Elston: Do you have any sort of time frame for this to be put in place?

Mr. Wilson: My own time frame, sir, would be by the end of the summer or possibly by the middle of the summer.

Mr. Bateman: I cannot add too much to Mr. Wilson's description of the present situation. We are anxious to proceed as quickly as possible and will just as soon as we get the number and the names of the people who are going to be working with us to get this program moving. We have the interest, I may say, of both the hotel industry and the hotel inspectors. It is now a question of keeping the momentum going. We are looking forward to it.

Training will start very quickly. I think most of the members know that we have facilities at the fire college to assist us there. We have a staff of engineers who have been administering the Hotel Fire Safety Act since the late 1960s. So we do have the expertise and we are anxious to get a concerted program going.

Mr. Elston: The deputy minister mentioned that you might have some details of the program. Is there going to be a substantial increase in the training to be given to new recruits coming over from the liquor licensing board?

Mr. Bateman: Yes, there will be. We are not sure exactly what we are going to be dealing with. Although up to now they have been, and still are, functioning as inspectors appointed by the minister to enforce the Hotel Fire Safety Act, they have been working for a separate agency. We are not fully aware of their capabilities and their expertise. We have had meetings with their supervisors, and that gives us some idea.

We want to assess their capabilities. I am sure that once that is done, there will be an identification of any weak areas and what intensive training is required to bring them up to the proper standard.

Mr. Breaugh: Basically, you are saying that a number of these people who have been making inspections are not up to a standard you would be happy with and that there is some substantial difference in the qualifications and training of those people who, up until now, have been doing inspection for various ministries. Is that right?

Mr. Bateman: Really we are going to have to make an appraisal once we meet the people we are going to be working with. Inquests such as the one on the Inn on the Park fire tend to bring out indications such as you are suggesting. We do feel that some of their inspectors are not of the standard we would like to see in those enforcing hotel regulations.

Mr. Breaugh: We are attempting to move to one level of inspection services. In theory, within a relatively short period of time each and every person who is charged with inspection duties will have similar training, background and experience and be reporting to the one ministry. Is that right?

Mr. Bateman: That is right.

Hon. Mr. McMurtry: You are talking about hotel fire inspections?

Mr. Breaugh: Yes.

Hon. Mr. McMurtry: There is an ongoing assessment, or there will be in the months ahead, of fire safety inspection generally, which is fragmented to some extent through the province. But in licensed hotel fire safety, yes, your remarks do apply.

Mr. Breaugh: Will there be an attempt to co-ordinate with local fire departments so that the response, the inspection system, whatever kind of emergency plan there might be for dealing with the fire situation and a co-ordinated effort among local municipal fire departments, are all in place? Is that the intent of the exercise?

Mr. Bateman: Yes, definitely. That is extremely important. Our office has very close connections with local fire departments. We feel that this integration would be more readily achieved with this new, unified program.

Mr. Breaugh: I understand the fragmentation which now exists is a substantial problem. There is a theoretical model of how to organize, but on a practical basis there are real problems with jurisdiction, level of training, who to call and how to deal with an emergency situation. It is your exercise now to try to blend all of that into one clearly aligned set of responsibilities.

Mr. Bateman: Yes.

Mr. Breaugh: It has been reported in the Toronto press that a number of emergency inspections took place after we had our first major hotel fire. At one time, the Star reported that some 75 hotels in Metro had been inspected and found to be flawed in some way. We were unable to determine in questions to the ministry precisely who was violating what law. I realize there is the awkward problem of people's businesses involved in this, but has there been any attempt to inform the public when a hotel is in violation?

Mr. Wilson: Mr. Breaugh, what you are referring to was some inspections done by the fire prevention bureau of the Toronto fire department. Those inspections were done pursuant to their local fire bylaw. Some infractions were noted and notice was given to the owners of those establishments. The information which has been given to the fire marshal is that most of those have been rectified or are in the process of being rectified. Those were not necessarily spot checks, but checks done by the Toronto fire department under the bylaw of Toronto.

Incidentally, there were not 75 inspections made, but about 36. I would suggest the main problem is not the number of inspections done, but the type of inspection done.

You probably appreciate that the fragmentation problem will be rectified, largely, with the advent of the new fire code, which we also hope to have in place by the end of the summer. That will provide a uniform code across the province and do away with the local bylaws, which have different standards for the fire departments and fire inspectors to enforce.

Mr. Breaugh: That is part of the problem in trying to deal with this. There is a traditional pattern that everybody participates, but nobody is quite sure who is running the show. For example, when you get reports that there are violations of somebody's municipal bylaw or the fire marshal's instructions to a hotel, there is no real way for the public to determine whether it is something major or minor.

We have always had the problem that it is, basically, local building inspectors who are involved. Then someone from the fire department will go in and say, "You have the sign in the wrong place." The assumption is that these are all very small, technical flaws which some very busy inspector has found. They are not very serious or important and it is a relatively minor problem. We are not sure how many instances there are or who found them and we are not sure of their nature.

Is that not a basic flaw in our system now? How are you going to get rid of that in the future? What will the difference be if we have a unified fire code and a unified standard of inspection, but continue to write it up as we do parking violations?

12:50 p.m.

Hon. Mr. McMurtry: You have to keep this whole thing in perspective and try to maintain a high standard. If any premises are inspected by the fire marshal's office which present a hazard to the public, I understand—the fire marshal can correct me if I am mistaken—the premises simply can be padlocked. That is the ultimate authority. You really are talking about a vast number of degrees.

Quite frankly, if the newspapers published a list of the infractions every day, given the technical nature, I would think it would be difficult for you or I, Mr. Breaugh, to make an assessment on that basis as to whether we want to stay in a particular hotel or not. Fundamental to the whole process is the responsibility that if there is what represents a hazard to the public, some point comes when it is just closed down. It is a very complex area. Perhaps you might want to enlarge on that or clarify it, Mr. Bateman.

Mr. Hilton: It I may, Mr. Minister, I have discussed the types of infractions with the fire chief on this problem. I have not seen the list of the hotels, nor have I seen a list of all the infractions. I asked him the types of infractions they had noted. They were things like exit signs out and bulbs burnt out. There were situations of doors and fire-escapes which should be readily closed to stop the flue-type aspect, where the door closures were not operating properly. There were certain instances where heat detectors and warning devices had been painted over and were not operating properly. While some were in the hotel, others were not.

They listed them all and sent them to the managers. The managers, I know, having talked to the managers' association, are very concerned right now about this whole perception of fire safety. We have to make use of that concern and keep on top to see they maintain that understanding. But they were very quick to see that all the things which were noted by the Toronto inspector were rectified.

I was advised that none of the infractions were of the major type which would say that they had to close a hotel and that the co-operative response they were getting was tremendous.

Mr. Breaugh: That goes right to the heart of what I am trying to get at here. For a long time we have assumed that these are all little, minor problems. I would tend to agree with that, with you and I sitting in a nice air-conditioned committee room here. If we are talking about something which seems minor, like an exit sign which does not have a light, it is minor right up until the point that hallway is full of smoke and one cannot see anything and the lights are out. The one thing in the world which is going to save your rear end is the lighted exit sign.

Mr. Hilton: You are right.

Mr. Breaugh: I hope I am making an argument in that in many other aspects of public safety we do not take that attitude. For example, and I know the analogy is not a good one, on air transportation there is a fixation in Canada, at least, about everything being operative. Everything has to work, it has to check, or the plane does not fly. If there is a sign which will not light up, the plane does not fly. It is as simple and straightforward as that.

Yet in the matter of fire safety where it is not a big deal—a matter of checking whether the smoke detectors work or the exit signs are lit or the exit door actually works the way it is supposed to work—it becomes a relatively minor matter. But it is an important one. There has to be a whole change in attitude that this really is not just a loose door knob that is to be fixed at your convenience and not just like a little building violation which causes someone some inconvenience.

Mr. Hilton: I could not agree with you more.

Mr. Breaugh: That small little thing really ought to take on a whole new dimension of importance.

Mr. Hilton: I agree with you entirely.

Hon. Mr. McMurtry: I think the industry has to recognize as well that it is not just a question of passing safety inspections either. Given the permutations and combinations of tragedies that can occur, the modern-day hotel should have its staff all trained to some extent with respect to fire safety, and this is going to be a major part of our initiatives. The awareness of industry has been heightened considerably by these tragedies, where no one expected they would happen in some of the newer hotels.

The truth of the matter is, no society is going to be able to provide more than a certain level of inspection, and what might go wrong, for example, between inspections is significant.

There are two areas of concern to us, quite

apart from the quality of our inspections. We recognize that responsibility. I have suggested publicly that we may very well have to consider much tougher penalties for infractions, when they are detected, in order to maintain the high level of concern with respect to these important issues you raise and, secondly, encourage education within the industry. For example, every household staff member in every hotel, in our view, should have some training with respect to fire safety.

The most obvious type of training concerns what one should be alert for from day to day, as they go about their duties, and being very vigilant in reporting any sign of smoke or anything else that might be awry. The only point I am trying to make is that, quite apart from what we can accomplish from an inspection standpoint, it is awfully important that the industry itself be well aware of its day-to-day responsibilities.

Mr. Breagh: One of the things which has disturbed me a little bit, because there has certainly been a lot of media attention paid to hotel fires and what one should do in hotel fire, is that there are conflicting opinions given, often by people with positions which would indicate to me as a layman that they ought to know what they are talking about. Sometimes you will read that the fire chief says, "Do this if a fire occurs," and the fire marshal's office says, "Do this if a fire occurs," and somebody else gives a third opinion. Then you read all of the little in-depth articles which are written about what to do in case of a fire in your hotel, but if you read two articles they tell you to do two different things.

Are you going to take into consideration even simple ideas, like posting on the back of a hotel room door not just the price of the hotel room, but what to do if a fire does break out?

Mr. Breithaupt: There are sections in the Innkeepers Act about that.

Hon. Mr. McMurtry: Yes, these things are posted. As a matter of fact, that is something that was the subject matter of a discussion

between myself and the president of a major hotel association the other day. My own concern is that most people are not even aware of what fire safety instructions are there.

The fact is that it has something to do with the whole business of selling the premises. If the last thing one sees before going to bed at night is disaster instructions, what to do in the event of a fire, I suppose some people may say, "We don't want to frighten our guests out of their wits." On the other hand, I agree that perhaps we have to take a good look at what the requirements are, even though there may be a little discordant note injected into the overall pleasure of the evening with the furnishing and interior decorating. That is something that has to be looked at very seriously.

Mr. Chairman: Gentlemen, it is now one o'clock. You did say you wanted to attempt to deal with item 3 by one o'clock. Are you prepared to vote today?

Mr. Breithaupt: I would be content, Mr. Chairman, that items 1 and 3 of this vote would carry now, unless there is some further comment to be made.

Mr. Piché: I would oppose that. I have some further questions and the time has run out.

Mr. Breithaupt: Questions on the fire marshal's matter? We had agreed it would carry at one o'clock.

Mr. Piché: We had agreed on that?

Mr. Breithaupt: I thought we had.

Mr. Chairman: It was agreed that we would attempt to get it done by one o'clock, but Mr. Breagh has taken the time to one o'clock without giving the others an opportunity.

Mr. Breithaupt: Mr. Piché has questions?

Mr. Mitchell: I have a countermotion, Mr. Chairman, that we carry item 1 of vote 1702 and resume discussion for the balance of the items under 1702; and that it being one o'clock, we adjourn until our next meeting.

Item 1 agreed to.

The committee adjourned at 12:59 p.m.

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Ontario, *LEGISLATIVE ASSEMBLY*

No. J-3

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of the Solicitor General



First Session, Thirty-Second Parliament
Thursday, June 4, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, June 4, 1981

The committee met at 4:48 p.m. in room No. 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL

(continued)

Mr. Chairman: With a quorum now being in place, may we commence. For the record, it is now 4:48 p.m. I believe we stopped with Mr. Piché wishing to discuss something or to address the Solicitor General.

On vote 1702, public safety program; item 3, fire safety services:

Mr. Piché: Mr. Chairman, the question I have is in connection with the fire marshal closing some offices in Timmins and, I believe, in Sudbury.

Hon. Mr. McMurtry: Just the one.

Mr. Piché: Just the one in Timmins? Are you planning to close one in Sudbury also?

Hon. Mr. McMurtry: No.

Mr. Piché: This time you closed an office in Timmins without consultation with anyone. Could you explain to me how you go about closing offices without discussing the matter with the municipal council and others who would have been very interested in making some comments and have some opinions about the closing of offices?

Hon. Mr. McMurtry: Perhaps the fire marshal would like to reply to that.

Mr. Piché: Before he answers, possibly the Solicitor General could also add something about the status. Mr. Pope and I have discussed the matter with you. We are very concerned, not only at the way this was done without talking to anybody, but where we stand as far as an office in Timmins is concerned, which looked after the whole Cochrane area.

Mr. Bateman: First, if I may, Mr. Chairman, I would like to attempt to correct the impression that we moved our investigator in Timmins without talking to anybody. We consulted with and discussed the whole matter of fire investigation with the fire chief in Timmins and with other fire chiefs in northern Ontario.

The process, I might say, is really not that

complex. Over my period of time with the fire marshal's office, our district offices have shifted to some extent. The decision is really based on meeting the needs and the demand for our services as best we can. In this particular case, I think everybody is aware we are rather hard pressed in our arson investigation and total fire investigation programs throughout the province. We periodically analyse the areas where the greatest need is.

Looking at our activities in northern Ontario and in other parts of the province, we found there were considerably more requests for fire investigations in southern Ontario than in northeastern Ontario. The ratio tended to be something in the order of 40 investigations per year in the north to 90 to 100 investigations per year in the south. This was really badly overloading our investigation teams in southern Ontario.

We do not look at these moves as being cast in stone. We try to place our resources where they are needed most. In this case, the situation was quite critical, almost of crisis proportions in southwestern Ontario. So we made that move. We hope it will not be permanent. Again, I would like to stress that we did talk to the people up north. I do not think we talked to council, but we talked to the fire chief in Timmins.

Mr. Piché: That is my next question. You talked to the fire chief in Timmins. Did you talk to others, other than the fire chief in Timmins? If not, what were the views of the fire chief in Timmins? Did he agree with what you were doing? From the way I understand it, this is a move that could hurt us in the long run.

Mr. Bateman: He agreed with the logic of our move. He would certainly have liked to have seen the Timmins office maintained, as we would.

Mr. Piché: Did you say that it might not be permanent, that it could be a temporary move and that you might reopen the office in Timmins?

Mr. Bateman: Yes, I sincerely hope so.

Mr. Chairman: Mr. Piché, do you have a another question?

Mr. Piché: The last question I have is to the minister. The point about the status was also asked. Are you still planning to meet with

myself and Alan Pope on this matter? We had arranged a meeting about two weeks ago and it never materialized. I am just wondering where we stand now as far as this question is concerned. It is a matter which will have to be followed up as to how long this temporary move—we hope it will be temporary—is going to last.

Hon. Mr. McMurtry: Mr. Pope and I have been meeting about three or four times a week on various matters and the subject has not come up, but we will be happy to sit down and discuss it with you. I know it is a matter of concern. A number of northern municipalities have had a lot of correspondence about it.

Mr. Piché: I was just talking to Mr. Pope right now.

Hon. Mr. McMurtry: If we are here tomorrow morning, we will meet tomorrow morning.

Mr. Chairman: You are through, Mr. Piché?

Mr. Piché: Yes, I am.

Mr. Chairman: Thank you. Mr. Gordon.

Mr. Gordon: Mr. Chairman, we are concerned about the number of fire investigations that take place in the southern part of the province, but for some years there has been a problem with regard to the number of qualified people available to do these kinds of investigations when fires occur in the north.

The fire departments of many municipalities in the north have few, if any, people on staff who are qualified for that task. It seems to me very important to have sufficient trained personnel to carry out the necessary investigations. If a fire is caused by arson, for example, the arsonist must be apprehended and prosecuted. Otherwise, we are simply contributing to increased insurance rates for the people who live in the north.

Are there regulations which require municipalities to have their own investigators? Secondly, what is the ministry's role in this? Does it provide guidance? How does it liaise in these investigations with the fire chiefs in the various municipalities in the north, particularly in north-eastern Ontario?

Hon. Mr. McMurtry: If I could just interject for a moment, I think the fire marshal can give you a more definitive answer, Mr. Gordon. I am not aware of any provincial legislation which even requires a municipality to have a fire department. This is an issue that is of interest to many of our friends in the fire fighting profession.

Secondly, I should also say that the fire marshal would like to have additional resources. That he is thin in resources is no fault of his. The government has to accept the responsibility for that. The fire marshal is doing the best he can with limited resources.

Mr. Bateman: Your description of the situation in fire departments and in the investigation of fires in the north is fairly accurate, Mr. Gordon. I will concede that. The expertise is not as uniform as it could be. I think in Sudbury you are fortunate to have an excellent fire prevention bureau working very closely with us in investigating fires.

The situation has changed quite dramatically in the past two or three years, however. We put on fire investigation courses at the fire college for municipal fire departments. We conduct, along with the police college, investigation courses at Aylmer for police and fire departments and we run special seminars on arson. I think eight or 10 of them were conducted around the province in the last year or two. There is tremendous interest in these courses on the part of the fire services, and I can say they are much better trained now than they were three or four years ago.

5 p.m.

Mr. Gordon: I really do not think that has answered my question. What you refer to is a nice learning experience, but what good is it if there is no legislation requiring municipalities to have fire departments and no regulations to ensure a certain level of competence? I think we have to look very closely at this area because it is costing and will continue to cost people a lot of money. There are those who will feel free to burn whatever they want to because we do not have the people who are sufficiently well-trained to apprehend them.

That leads me to the other point, which is training. We should make sure we have the necessary regulations to see that municipalities of a certain size, where they have sufficient moneys and where the government is ready to provide a certain type of training through the fire marshal's office, are required to have a certain number of people brought up to the grade of a first-class investigator or whatever it is called.

Finally, returning to my first point, how does your department liaise with the various fire departments which do have an investigator and with those which do not?

Hon. Mr. McMurtry: I think the first part of the question really should be answered by me inasmuch as it relates to government policy with respect to legislation. The fire marshal has to operate within whatever legislation may or may not exist.

The point you raise is a very interesting and important one with respect to fire protection and to policing. It is a difficult issue and one where your insights are certainly of interest. You have been the mayor of a major municipality and realize there is the issue of local autonomy when it comes to levels of effectiveness in relation to police or fire services.

We have legislation that requires municipalities to maintain police forces, but I am not aware of any legislation that dictates to municipalities the quality of the police forces. As I have said, there is no legislation which even requires municipalities to have a fire department. This matter has traditionally been treated as one of local autonomy. I would be interested in the views of someone who has had the experience of serving in the important role of mayor of a major municipality as to what the attitude of a municipality would be to legislation passed in the provincial parliament which would impose certain standards on them with respect to levels of policing.

In the United Kingdom, as was mentioned here the other day, there is a whole system of conditional grants which gives the central government a fair degree of muscle when it comes to insisting on certain levels of standards with respect to policing. I do not know whether there is such a system with respect to fire services in the UK.

We have a history of unconditional grants and a high level of local autonomy. I think there is a philosophical issue which has to be addressed as well as the question of what the policy of the government is going to be. As for the nature of the liaison between the fire marshal's office and the individual fire departments, I think the fire marshal obviously is in a better position to answer that.

Mr. Bateman: It is extremely close because the fire prevention people, the fire department investigators, work under the authority of the Fire Marshals Act. So there is a statutory liaison to start with. All of those who are involved in fire investigation and fire crime detection are trained by our office. In fact, they work directly with our fire investigators.

Our fire investigators do not investigate every fire, but every fire is, in a way, investigated by

the local fire department, the assistants to the fire marshal. But the suspected arson fires, the large-loss fires and the fatal fires are investigated by our investigators around the province. They work closely with the local fire department, whether there are fire investigation specialists on that department or not. Their work is made much easier if there are, though.

Mr. Gordon: Just to follow that up partially and perhaps answer the Solicitor General, it has been my experience that it is human nature to sometimes follow the line of least resistance. Whether you legislate or you encourage in one way or another is perhaps a matter for some debate.

When we are talking about policemen or firemen, when budgets are being worked on, at times things such as training are cut. That is a big mistake because it costs the public much more in the long run. I have been aware for some time—not only in the municipality where I happened to have been, but in others as well—that there is the idea that if someone goes off and gets his course at the police college, that is it. Then somebody gets his course at the fire marshal's department, and that is it.

That is not good enough because we are living in a very complex society and we know that if people are well-trained and take courses to upgrade themselves every so many years, the public is going to be well served. I think that is something which could be looked at. I also think that when we are looking at this whole question of arson, either with regard to the lack of investigators or having investigators, perhaps we could look at some other jurisdictions and see what has been the experience in those jurisdictions where they have had more training.

Mr. Hilton: Mr. Gordon, the budget for training, both in fire and police, has not been cut. True, it has not expanded as we might like, but none of our budget has expanded. Our police force in the province is the same size as in 1972.

Mr. Gordon: You are talking about OPP now?

Mr. Hilton: Yes.

Mr. Gordon: I am talking about municipal police forces.

Mr. Hilton: Municipal police forces have grown, but I am talking about the budget we have to work with as a ministry. It has not grown to allow the OPP to increase or the fire marshal's office to increase or to allow any increase.

But we have, happily, received authority and are working on plans for an increase in the size of our fire college. It is not by reason of the need of an increase at the fire college, recognizing that we do need it, but because our accommodation there is very old and not very fireproof, to say the least.

Mr. Breaugh: Are you saying the fire college is a fire trap?

Mr. Hilton: Government Services are now working on, and will have by the end of next year, a new facility, new accommodation at the fire college which will more than double the capacity of the fire college.

Mr. Breaugh: Do you have orders to comply on the fire college?

Hon. Mr. McMurtry: The Treasurer (Mr. F. S. Miller) and I had a little tour of the fire college.

Mr. Breaugh: Can we get an answer to that one? Do you have orders to comply on the fire college itself?

Mr. Bateman: No.

Mr. Breaugh: Is that because you have no staff to conduct the inspection?

Mr. Hilton: It is a very old building. As the minister was just saying, we were fortunate enough to get the OPP helicopter one day and fly the Treasurer and the minister to look at this. They responded very readily and said we do need it and we are getting it.

5:10 p.m.

Mr. Gordon: Mr. Chairman, could I have one last comment? I would like to see the fire marshal's office look at what has happened to insurance rates in northern Ontario as a result of fires and speak to the people in those municipalities who have found their rates have gone up. I am sure you will find some people in the insurance industry who will tell you that it is because of the incidence of arson and so on. I think you have to balance that cost off against that of how much is it really going to cost to provide a better level of service.

Hon. Mr. McMurtry: Could I ask you a question, Mr. Gordon, as part of our discussion? With respect to this whole level of arson detection, to what extent should the fire marshal's office in the future be providing all of the real investigative expertise with respect to suspected arson as opposed to the extent to which it should be the responsibility of the local municipality, in fire just as we have in police, to provide that level of expertise locally? It is the old problem of who should provide the funding.

Notwithstanding the fact that we recognize the situation, as far the fire marshal's office is concerned we would like more inspectors. We would like an additional complement. Having said that, what is your view as to the responsibility of municipal fire departments to develop that expertise internally and train these people with the assistance of the fire marshal's office? This is an issue with which I have a little difficulty myself.

Mr. Gordon: In reply to your question, depending upon the size of the municipality and the expertise that lies within that particular fire department, there is a capability there to do much of the training. They do much of the training right now, but I think they would need a little more professional expertise and knowledge with input from the fire marshal's office, and maybe that is where you should be looking for training.

At the same time, coming back again to this whole question of regulation, everybody knows that municipalities are the creatures of the province. Certainly when the province gives municipalities grants for roads, it insists upon certain specifications or within a certain range. Otherwise, one could have a disreputable engineer who would put in a poor road and so forth. The province regulates municipalities in many ways today—health and social services, libraries, you name it. I do not understand why we would be reluctant to examine the whole question of fire or, for that matter, policing.

Hon. Mr. McMurtry: There are conditional grants.

Mr. Gordon: Conditional grants are conditional grants. Perhaps you can use that as an incentive.

Hon. Mr. McMurtry: The next time the municipal association meets I am going to bring you along.

Mr. Elston: Mr. Chairman, if I might just ask a quick question, in light of the new onus placed on the fire marshal's office in relation to this increased inspection service for hotels, are you confident you have sufficient budget to provide adequate service? Are you going to be doing a skeleton job when you take over?

Hon. Mr. McMurtry: I think it was said last time—I am not sure if you were here then, but you were here most of yesterday—that in the next few weeks a certain amount of our time will be taken up with an appraisal of the human resources we have within the government that are being shipped over to the fire marshal's office.

You are quite right in speculating that we may require additional resources in order to do the job properly. We are not in a position to say now just what those additional resources may be, but that certainly is a very real possibility.

Mr. Elston: The concern I had is that you are not going to be hampered in your assessments in setting up the structure to such an extent that it is going to cause a deficiency in the staff, which may end up creating a problem within the fire marshal's office that now has resulted because of the split jurisdiction problem.

Mr. Hilton: We are expecting the money to follow the people, but whether that is adequate or not, assessment will have to be made as it goes on. As it is going, we will take a man and it will be costed in relation to his support staff, his office space—all these things—and we will get it from the ministry from which we are taking him.

Mr. Elston: But as I understood what was said yesterday, it is partly that you are not even sure, in effect. The fire marshal indicated he may not be satisfied with a good many of the characteristics and qualities of the people who are inspecting now, in which case what you will probably be doing is setting up a number of new staff in your own office and probably will not be able to transfer too many people from another ministry at all.

Hon. Mr. McMurtry: I think you are really a little hypothetical.

Mr. Elston: But if that happens there will have to be new funds from somewhere.

Mr. Hilton: We will have to go to management board and make our case.

Mr. Breagh: If I could pursue that for a moment, is that not a particularly sticky way to proceed, putting in legislation and personnel without funding assurances prior to plugging them into the system?

Mr. Hilton: No.

Hon. Mr. McMurtry: We are not talking about legislation. These are basically administrative changes.

Mr. Hilton: We will get the dollars that are now going to that.

Mr. Breagh: We are talking there about realigning funds.

Mr. Hilton: Yes.

Mr. Breagh: For example, what happens if you follow a similar pattern, where you moved the fire marshal's office out of northeastern Ontario for budgetary reasons, now that you

have a new fire code and increased regulations in terms of inspections here in the Metropolitan Toronto area? For very practical purposes, if you decide to go full tilt into inspection services—the entire regulation—in the downtown Toronto hotels, I dare say that would usurp almost all of your staff, would it not? What does the rest of the province do if further funding is not provided?

You are talking about a dramatic difference, I think, in the level of service provided. If you decided to be extremely comprehensive in, say, just Metropolitan Toronto, I would dare say all of the staff you now have and any you might second from any other ministries would be used up in that one municipality.

Hon. Mr. McMurtry: No. I think you are making several assumptions that may not have any factual basis. First of all, we know that the liquor inspectors, who have been acting as agents of the fire marshal and are trained as such but have been part of the liquor inspection branch of the government, have been doing the inspections of licensed premises across the province. I think you are assuming that these people have been doing inadequate inspections and, therefore, the same people, working directly under the fire marshal's office, would be unable to do the job properly.

We are not making that assumption. From a public perception standpoint, I think the public probably has had increasing difficulty in seeing liquor inspectors also as fire inspectors. There is a perception problem which is important in relation to maintaining confidence in what we are trying to accomplish. Theoretically, a lot of these people we do know have done a very adequate job of fire inspection.

It may have taken half their time. The man-hours that were involved in fire inspection by these inspectors will be shifted directly to the fire marshal's office, whereas before the relationship was a more indirect one. In theory at least, if there was a reasonably adequate level of inspection, the same number of man-hours will be available.

5:20 p.m.

We realize that the reality of it is that we are probably going to have to enhance some of those resources. That is my preliminary view. But I do not think it is fair to assume that the resources the government now has are simply inadequate to do the fire inspection for which they are responsible.

Mr. Breaugh: Yet you do admit that in all of northeastern Ontario you do not even have an office.

Hon. Mr. McMurtry: No, they are talking about a different issue altogether, that is, the fire marshal's office with respect to northeastern Ontario largely in relation to arson investigations.

Concern has been expressed, and there is no question the concern is there. But the truth of the matter is that there are a number of local fire authorities in northeastern Ontario that do have some high degree of competence in this area. While the fire marshal's office may not have a full-time office in Timmins, the fire marshal's investigators, I assume from Sudbury and Sault Ste. Marie, will be serving that area. So we are dealing with two different issues.

I have just been reminded that there are four other offices in the northeast area.

Mr. Breaugh: You said there were four other offices in the northeast area. Where are they?

Mr. Hilton: There are four offices all told.

Mr. Breaugh: Where are they? You took the one out of Timmins. Where are the other four in the northeast?

Mr. Hilton: Not in the northeast, but accessible to that point.

Mr. Breaugh: Any place in the world is accessible to northeastern Ontario. You said there were four other offices in the northeast. Where are they?

Mr. Hilton: There are only 30 fire inspectors of this type in the whole province.

Mr. Breaugh: That is what I thought. But you said you had four offices in the northeast.

Mr. Bateman: In the north. If we could drop the east and just make that the north, I think we would be in the ball park with four.

Mr. Piché: Where are the four fire investigators?

Mr. Bateman: Sudbury, Sault Ste. Marie, Bracebridge, which covers—

Mr. Breaugh: Bracebridge is a bit of a walk from Timmins.

Mr. Bateman: But it does not cover the area to the south.

Mr. Piché: Bracebridge is a long way from northern Ontario.

Mr. Bateman: I thought I might get an argument on that one. The other is Thunder Bay. In addition, we have fire services offices in

Sault Ste. Marie, Sudbury, Timmins and Thunder Bay. We also have one of our hotel inspectors in Sault Ste. Marie.

Mr. Breaugh: I am thinking more along these lines. I believe it was about a year ago when there seemed to be a rash of arson in smaller Ontario communities. I believe it began around the Kitchener-Waterloo area. Then there seemed to be some reports that fairly major downtown areas in small communities, such as Cobourg and Napanee, all of a sudden had something they had not seen in some time, namely, a major concern about arson. At that time, there seemed to be some difficulty in responding from a central source to cover those investigations. It seems to me you are compounding the problem somewhat.

Mr. Bateman: I did not really perceive concern about the distance from our central office in the coverage of these investigations. These things go on a cyclical pattern often. There have been times when we have felt we did not have enough staff to cover the fires that occurred during a period of time. The distance of travel has not been a major issue. We can cover off investigation demands in the north from a number of offices if we have to send a man up there.

Mr. Elston: Can I just hark back once again to the idea of the hotel inspectors? It seemed to me you were saying that the inspectors will be under the jurisdiction of the fire marshal but they might still carry on their liquor inspection functions.

Hon. Mr. McMurtry: No.

Mr. Elston: They are going to be totally separate. In that case, when you take staff from that ministry to your ministry, the first ministry will probably have to take on additional staff. There may not be any funds to move with the man, if I might make that observation. The funding may become more difficult than you now indicate.

Mr. Breaugh: That is the obvious question. There will be a continuing need for liquor inspection services; that is going to have to happen anyway. If somebody leaves who used to be a liquor inspector and did fire inspections as well, I would imagine the liquor licensing board will say, "You took our man, but I still have to perform this service, so this money stays here." Who is going to pay for this person's salary? You are making an argument that you will cost out an allocation and simply move that

amount into this particular budget allocation. But I sense that it is not going to be quite as smooth as you make it appear.

Hon. Mr. McMurtry: It may not be. We will have a much better idea several weeks down the road. It is still fairly early on. I am sure there will be a lot of financial and other headaches that we have to deal with. There is no question about it.

Mr. Elston: Then these particular estimates are going to be very difficult in terms of the upcoming year's expenses in view of the fairly large expansion in this line. Is that what you are saying?

Hon. Mr. McMurtry: Since the policy decision was made after the estimates had been tabled, there may have to be changes or additional funding provided.

Mr. Elston: What I want to emphasize is whether we can be assured that the facilities of the fire marshal's office are going to be able to take over this independent inspection service and provide the service which, as you know, the coroners' reports for those three particular fires suggested they do. There is no point in our making plans if we are not going to provide the necessary tools for the fire marshal to do the job which you have undertaken.

Hon. Mr. McMurtry: We are going to have to continue to struggle to maintain an adequate level of funding. We have never made any secret of that in the Ministry of the Attorney General. Maybe they will have to turn to some of you gentlemen to contribute part of your salaries.

Mr. Breaugh: You have already got a fair chunk of that now.

Mr. Chairman: Mr. Renwick asked to speak to this.

Mr. Renwick: I have just two short questions and one comment I would like to make, and then I would like the Solicitor General's response. Rather than my putting it as an inquiry in the Order Paper, would the ministry let me have a list of the locations where there has been suspected arson in the city of Toronto proper, east of Yonge Street, in each of the last three years?

Mr. Hilton: Covering a period of three years?

Mr. Renwick: Three years, and as up to date as you can possibly get it.

Mr. Hilton: You are speaking of suspected, not proven arsons?

Mr. Renwick: Arsons and suspected arsons—fires where there has been a suspicion of arson which has led to the fire marshal having an investigation.

Secondly, I was looking at the Order Paper. I think that the amendments to the Fire Marshals Act should be given priority, with a view to having them enacted before the summer recess if at all possible. Everybody has his own view of the priorities of legislation, but it seems to me in the circumstances that particular bill should be pressed through the assembly.

Hon. Mr. McMurtry: That is a point I have been trying to make internally.

Mr. Renwick: I would like to think you would speak to your House leader about that.

Hon. Mr. McMurtry: I have every day.

5:30 p.m.

Mr. Renwick: I do not want to see that left over to the fall. The reason leads me to my general comment.

I have an immense sense of uneasiness about the city of Toronto particularly, but Metro and other cities as well. I have this apprehension that many people have about a serious fire in high-rise buildings, whether hotels, apartment buildings or office buildings. I have had the opportunity to speak privately with the Solicitor General about my idea of how we should deal with it. I do not think that there is any real public appreciation of the potential hazard that is involved.

I doubt very much whether, with all of the professional training, there has ever been an overview taken of the demands on the fire services in the event of a fire in high-rise buildings. We have had the experience with the Inn on the Park and the others, but in each case there seems to be just a repetition of recommendations which were made before. The fire code has been kicking around forever, but there is very little public knowledge of it since it not been publicized and enunciated in a modern sense.

Apart from the lack of public understanding, I do not think the people who use the buildings have any real sense of what they should do in the event of fire. I do not think there is any common appreciation of any patterns that should be followed in each of the buildings.

Still speaking of the city of Toronto, I have a sense that the failure to amalgamate—and I know the tremendous political and other problems in amalgamating the fire departments in Metro—of necessity means that each of the fire departments in the cities and the boroughs cannot, on its own, afford the kind of very specialized equipment which the metropolitan area, alone or together with the immediately adjacent regions, could afford.

There must be in the United States and Canada, and perhaps in Europe and Japan, a great deal of expertise that has never been pulled together in one forum in an actual inquiry about what to do to prevent fires in the first place, what to do in the event of fire and how to contain them to reduce the damage.

Mr. Hilton: Pardon me, Mr. Renwick. That is in particular relation to high-rise?

Mr. Renwick: I am talking about the high-rise problem whether office, hotel or apartment. I think there must be very special problems that have to be looked at. My feeling is that the only appropriate forum for that would be a royal commission. Given the proper appointment, somebody who had the skill and the ability to do it, the staffing and the funds to finance it, it should be possible to perform an amazing public service, not only for our own area, but for every place where there are high-rise buildings. There may not be the same number but it is the tradition of all cities.

I speak only from this tremendous sense of uneasiness that I have. I do not want to wake up some morning and find that there has been a major fire, that there is going to be an inquiry into what happened and then, after the event, a tough overview of the whole situation being taken to analyse what could or should be done.

I would appreciate any comment that the Solicitor General might make, first on the minor but important question of getting the amendments to the Fire Marshals Act through before the recess and, secondly, on the larger question of the advisability of a public forum for some of the reasons which I have stated—there are obviously other reasons for it—to deal with this whole question.

Hon. Mr. McMurtry: I have indicated to the House leader virtually every day, Mr. Renwick, that I regard amendments to the Fire Marshals Act as a matter of utmost priority and that I would hope we could pass this legislation. There is some interest in some of the revenue bills which are before the House now. Whether or not we are going to get out of here on June 19 is not something that is going to be my decision one way or the other. I personally would not like the House to adjourn before this bill is passed. Any co-operation we can obtain from the opposition for a relatively expeditious passage of this legislation would be much appreciated. But it is certainly our hope that it will be passed. I will make every effort in order to pass it.

If there are any problems with the legislation,

I would be happy to discuss them with the opposition parties with a view to attempting to reach some consensus for a relatively expeditious passage in order to get on with the fire code itself. As far as I am concerned, of all of the legislation I have some interest in, both as Attorney General and as Solicitor General, I am giving this bill the highest priority.

With respect to our discussion earlier in the week, I have discussed your concerns with the Deputy Solicitor General and others. As the Deputy Solicitor General will recall, I indicated to him that I really felt there is great merit in your suggestion with respect to somebody doing the proper overview because there are a number of issues and a number of concerns that I think we share with respect to this. I don't know whether a royal commission is the route to go; it may be. Certainly the suggestion is an important one. We are just assessing what resources we have or just who that individual might be who might be able to spend full-time at this for a long time, taking a look at the total picture. It is a very useful and important suggestion.

There are a couple of other interesting questions you have raised. I have not had a chance to discuss with the fire marshal the very interesting issue you raised of amalgamation of fire departments with respect to Metropolitan Toronto. It may be a very sensitive, political issue within the individual fire departments. I am sure it is.

Mr. Renwick: I am sure it is.

Hon. Mr. McMurtry: I would be as interested as you would in knowing or having the fire marshal's views as to this understandably sensitive issue with respect to departments that have established their own individual profile. Is that a bit of a hot potato, Mr. Bateman?

Mr. Bateman: To make my views known now, it is a little bit. I would not quarrel with any of the comments that have been made so far.

Mr. Breaugh: Do you have an inventory, for example, of the equipment in Metro to fight high-rise fires? In a number of municipalities I am familiar with, local municipal firefighting organizations have pooled information about who has got what kind of equipment and plans are worked on ahead of time to determine how they would use it during action to fight a particular fire.

5:40 p.m.

Mr. Bateman: I certainly think the segregation of the departments in Metro can be exaggerated. They have a mutual aid agreement, as do the counties and regions, and they have

informal agreements as to boundary responses. In many respects—I would say in the major ones—they do function as one fire department for quick response and to assist each other. Certainly there are merits to having one large fire department that can be clearly identified.

Mr. Renwick: I am well aware that the co-operation is very high amongst the fire departments of the boroughs and the cities.

Mr. Breauch: Would it be a great deal of bother to see—I do not mean to reproduce for anybody who is not interested—a joint inventory of equipment that is available to fight a high-rise fire here in Toronto, and perhaps to take a look at the kind of plans that have been worked out in advance? We have seen it in a number of other areas. I do not mean to put you through a lot of paperwork, but it is a matter of some interest. Would it be possible to do that?

Mr. Bateman: Sure. Concentrating on Metro?

Mr. Breauch: Yes.

Mr. Chairman: Mr. Renwick, is that the end of your comments and your questions?

Mr. Renwick: Yes. That is as far as I can pursue it. I guess my last comment is simply that one can itemize the various reasons for doing it, but the reason I think a public inquiry or a royal commission is advisable is that I do not get any real sense of public appreciation of the nature and degree of the problem, particularly in the thinking of thousands of people who use the high-rise facilities in the Metropolitan area every day. I think a public forum that could bring all of this information together is by far the best place. Perhaps the assembly could do it or have the committee do it, but I do not think that kind of problem is as appropriate for this committee as was, say, the Re-Mor inquiry, where this committee was obviously the natural place for that inquiry to have taken place.

Mr. Piché: Mr. Chairman, to continue on with this discussion just for another minute, a lot of people are concerned about high-rises, especially when you live in Toronto. Right now, there are masks on the market that a lot of us have been receiving some information on. I wonder if the fire marshal would give us his views and see if he has approved such masks.

They are advertised or shown as being good for 20 minutes, enough time, if you are living in a hotel or a high-rise, to get out in time with those particular masks. What are you doing about that right now? As more and more concern is shown especially for those in high-rises, this will become quite an issue, especially now that I am also

staying in a high-rise building. That is far from the OPP. I am sure they are not going to come and rescue me as soon as there are problems there.

Mr. Bateman: There has been a boom in masks since the Nevada and North York hotel fires. We have not, fortunately, been in a position where we have to approve them or reject them. We receive a lot of questions as to our views. I have never tried one myself. Some of our staff have used them up at the fire college with rather negative reviews.

The real killer in fires is carbon monoxide. There are a lot of other toxic gases given off in combustion which are very irritating, but by far the most fire fatalities result from excessive carbon monoxide in the atmosphere. These masks do nothing to prevent carbon monoxide getting into the lungs.

They may buy a few minutes of protection from the extreme irritants if one is forced to escape down a smoke-clogged stairway, but I am a little hesitant to give them unconditional endorsement because people tend to accept that and think it is the answer to high-rise fires.

Mr. Bradley: A false sense of security, would you say?

Mr. Bateman: Yes, I would.

Mr. Piché: If it had a small supply of air, as in the Scott air-pack that firemen use right now, say, 20 minutes or half an hour, then there should be no problem if they come out with a proper mask. Are you looking into something like that yourself so that somewhere along the line you can approve a certain mask?

Mr. Bateman: Not right now, no. I see pitfalls in a government agency promoting something like that. As I visualize it, that would require a high degree of care and maintenance on the part of the potential user. As Mr. Bradley said, the false sense of security could result in more fatalities than would otherwise occur. People have a normal, natural fear of fire and smoke.

Mr. Piché: In other words, there is no stamp of approval.

Mr. Chairman: Mr. Bateman, thank you. We are past the point of adjournment and must go back into the House.

Mr. Breithaupt: Can we carry this item, Mr. Chairman, so that we know what our plans are for the three or four hours remaining?

Mr. Chairman: Is there any further discussion on this item, or do you wish to vote on this item at this point?

Item 3 agreed to.

Mr. Chairman: Fine. We will then adjourn until after routine proceedings tomorrow morning, when we will recommence with vote 1702, item 2.

Mr. Breithaupt: How much time do we have left?

Mr. Chairman: About three hours and 27 minutes. We still do not have our budget. One of these times we have to get to our own budget.

Mr. Breithaupt: We can pass it now before Mr. Williams requires that we do these estimates and justice policy before we do anything else.

Mr. Chairman: I thought we were going to have five minutes at the end to pass our budget.

Mr. Breithaupt: Perhaps we will tomorrow.

Mr. Chairman: Maybe we will.

The committee adjourned at 5:45 p.m.

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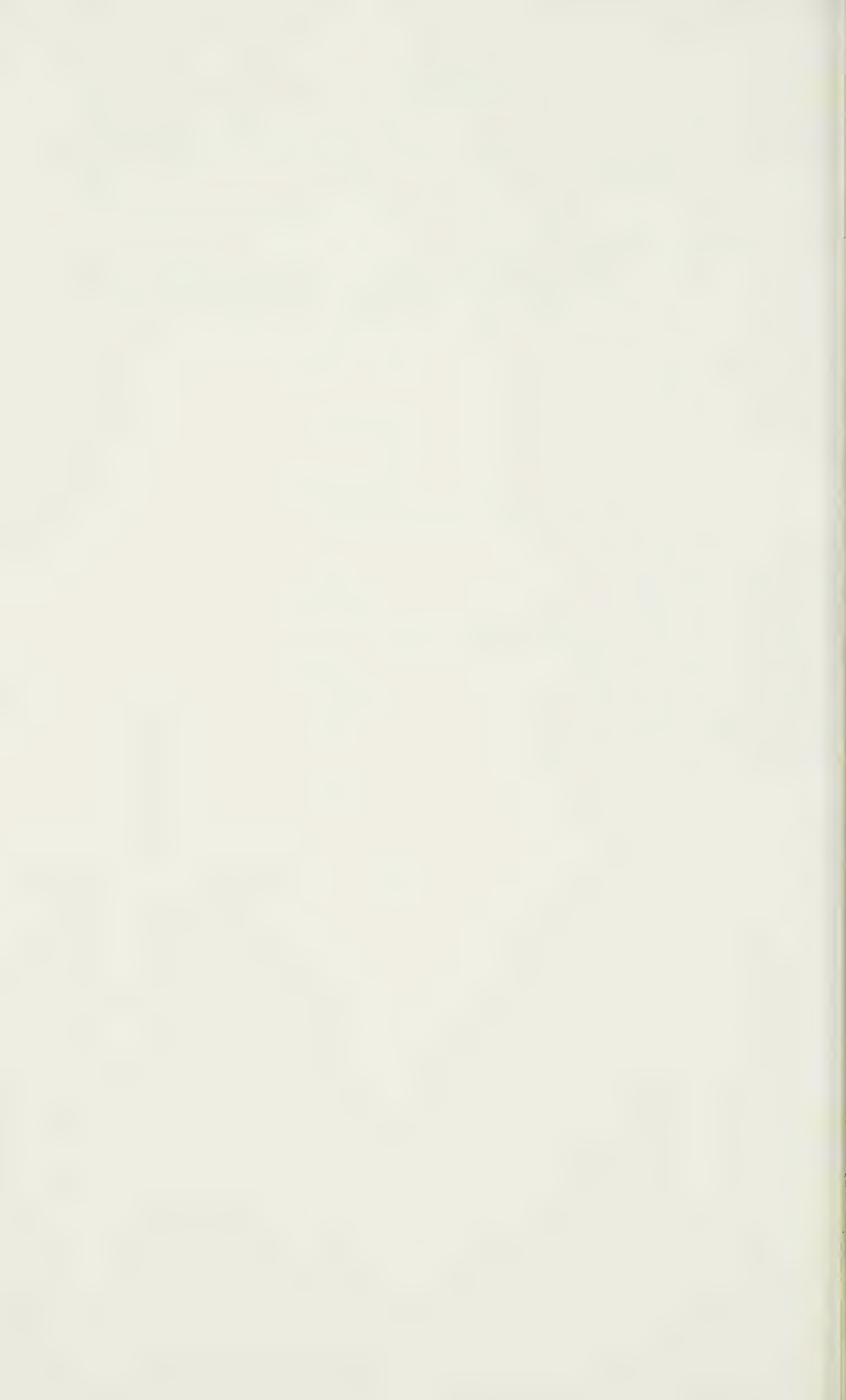
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From the Ministry of the Solicitor General:

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Standing Committee on Administration of Justice

Estimates, Ministry of the Solicitor General



First Session, Thirty-Second Parliament

Friday, June 5, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, June 5, 1981

The committee met at 11:49 a.m. in room No. 151.

After other business:

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL (continued)

Mr. Breithaupt: Mr. Chairman, before we proceed, I wonder if we could be informed by the clerk as to the time remaining and then have the opportunity to consider whether that time can be divided among the remaining votes. I realize that there is obviously great interest in the work of the fire marshal for a variety of reasons, as well as in the coroner's office. However, we have three more votes, and I think they are at least each worthy of some opportunity. Could the clerk tell us what time is available?

Clerk of the Committee: At the present time we have three hours and 22 minutes remaining.

Mr. Breithaupt: Would it be possible to suggest that vote 1702 could carry today? That would then leave us two hours to deal with the remaining three votes which deal more particularly with police matters.

Mr. Chairman: What is the wish of the committee? Someone made a suggestion—if not Mr. Breithaupt, someone else—very early on to do that, but Mr. Breugh and Mr. Williams rather subverted that scheduling and we were off and running. Are there any other comments as to some type of schedule or framework for finishing the estimates?

Mr. Philip: Are there more speakers on item 2?

Mr. Chairman: Yes.

Mr. Philip: Can we carry that now?

Mr. Chairman: No. Mr. Mr. Piché expressed a wish to speak on other matters on item 2, did you not, or was it item 4?

Mr. Piché: I do not think I have any more questions on item 2.

Mr. Williams: I have certain questions I would like to raise.

Mr. Chairman: The masks, Mr. Piché, are under item 2, are they not?

Mr. Breithaupt: This is just a suggestion, Mr. Chairman.

Mr. Chairman: I appreciate that.

Mr. Breithaupt: If we carry the vote today, then we will divide the time a little more fairly because these other votes are worthy of some attention.

Mr. Chairman: Does the committee wish to make an attempt to work toward a structured completion? I see nodding here to my right. Is that something we should try to work towards?

Mr. Mitchell: We can try, Mr. Chairman, but there may be questions arising out of some of the items, and I think you have to be prepared to allow a certain leeway.

Mr. Bradley: Mr. Chairman, the tradition of estimates has been to try to cover as much territory as possible, but I should point out that what often happens, though not so much with this ministry, is what happened last week and in an earlier week. I recall the Ministry of Consumer and Commercial Relations as a good example of this, where we never got to some interesting votes because we took all the time on the first couple of votes. I always thought the Liquor Control Act was interesting, but we never got to it because it was last.

The point is that it would be nice to get relatively equal time on each of the votes because there are a number of police matters that are interesting to all the members of the committee. This is why I think it would be useful not to spend all of our time on one particular vote at the expense of the other votes.

Mr. Chairman: Where are we?

Mr. Bradley: We can have a motion on that, if necessary.

Mr. Breithaupt: Was item 3 of vote 1702 carried, Mr. Chairman?

Mr. Chairman: Yes. Item 3 was carried at the end of the session yesterday.

Mr. Breithaupt: Thank you.

Mr. Williams: The coroners come under item 4, do they not, Mr. Chairman?

Mr. Chairman: Yes, I believe that is item 4 under vote 1702.

Item 2 agreed to.

On item 4, coroners' investigations and inquests:

Mr. Philip: Mr. Minister, can you give us any further information as a follow-up to my question in the House concerning the inquest into the death of those two people in Rexdale? Is there going to be an inquest and has there been any indication that the Ku Klux Klan was directly involved in what might be more serious than the mere accidental fire?

Hon. Mr. McMurtry: I have passed along your concerns, Mr. Philip. I have not any additional information, other than what I had when we were talking about this a week or so ago. I do not know if the inquest has been scheduled. Dr. Bennett, has that been scheduled?

Dr. Bennett: No. It is still under investigation. They have not advised us yet.

Mr. Philip: Has it been decided that there will be an inquest?

Hon. Mr. McMurtry: Dr. Ross Bennett, the deputy chief coroner, has now joined us.

Mr. Philip: Will there be an inquest?

Hon. Mr. McMurtry: Without knowing all of the details—and I really should have the benefit of more information—I have to confess I rather expected there would be an inquest. It is something about which I can have a little more information perhaps between now and next Wednesday when our estimates resume. With your permission, Mr. Chairman, we could come back to this. I am sorry I do not have more specific details at this point.

12 noon

Mr. Philip: I recognize that even next week may be a little short notice for the minister. As I would like to have as complete an answer as possible, could the minister agree that sometime before the House adjourns he will make a statement in this committee or in the Legislature or through a letter to me—that would be perfectly acceptable—that would deal with, one, whether or not there will be an inquest; two, whether that inquest will be broad enough to investigate any activities, if there are such, by the Ku Klux Klan; and, three, what action may be taken by his ministry in dealing with this problem, if it is a problem, in the Rexdale area?

As I understand it, they have been handing out hate literature, though I have not been able to get my hands on any. There seems to be some connection with the people who died in this rather unusual fire.

Hon. Mr. McMurtry: Yes, I think that is a fair, reasonable request, Mr. Philip. In view of the concerns you have expressed to me and enlarged on privately, I will have, I hope, a fairly comprehensive statement to make.

We are concerned about any possibility of there being a connection, as you have expressed, with respect to the Ku Klux Klan. Any information we can obtain about the distribution of literature that might offend provisions of the Criminal Code is a matter of great concern to us. We would hope that any citizen who may have received any of this type of literature would hand it over to us.

We will try to have more complete information with respect to this matter as soon as possible.

Mr. Philip: I appreciate that. Not only is the community concerned about the particular deaths in the fire, which happened to have taken place on public property, Ontario Housing, but also there are people who are afraid. Anything that can be done to show that the government is in control of this situation will ease some of those fears and anxieties in the community.

Mr. Breithaupt: Mr. Chairman, I have just a couple of comments to make. I was interested in a rather lengthy article in the *Hamilton Spectator* on April 22 with respect to four deaths in the Hamilton area over a six-week period and the resulting publicity that occurred with respect to whether inquests would or would not be held. In the article, it was interesting to read the reasons and purposes of inquests, with which members are probably familiar. I will read the paragraph as it appears here in case there are some new members who are not as familiar with the matter of an inquest.

"According to the Coroners Act, the purpose of an inquest is to determine who the deceased was and how, when, where and by what means the deceased met death. The main criteria for deciding whether to call an inquest are: If the general public thinks facts related to a particular death are being hidden; if the publicity surrounding an inquest will prevent a similar death from occurring in the future; and if an inquest jury could make recommendations that could prevent the situation from happening again. Among the reasons for calling an inquest are when persons die as a result of violence, misadventure, negligence, misconduct or malpractice, suddenly and unexpectedly, or from any cause other than disease."

The interesting part in this article is the comments which were quoted to have been

made by Dr. David Marshall, who is the coroner in Cayuga and who is also a lawyer. This is the quotation from Dr. Marshall.

"The Ontario inquest in its present form has become unwieldy, unworkable and expensive. In the early days of the coroner's court, where jurors were actually witnesses and the fellow townfolk of the deceased, and where there was no such thing as a police force to investigate or an autopsy and pathologist to certify cause of death, the inquest and the questions it was to answer made some sense. They make no sense today, where an autopsy and a police investigation are much more accurate, expeditious and inexpensive."

I am wondering if the Solicitor General and the supervising coroner have any response to that kind of comment. Are we to expect that inquests will be somewhat more the exception than the rule? Are there some changes to the Coroners Act which may be contemplated to answer some of the points which Dr. Marshall has made? What is the future of the use of this particular tool? Is it going to be reserved more for very serious events, such as the hotel fires that unfortunately occurred, or is it simply something that will be used from time to time as the circumstances require?

Hon. Mr. McMurtry: I want to make it very clear that I am strongly of the view that the inquest, as it is presently constituted, is a very important mechanism and a very important process with respect to investigations, with respect to accountability and with respect to public education relating to deaths that occur in circumstances that warrant such a hearing.

I do not expect inquests to be less frequent. We live in an age of increasing public accountability with respect to the institutions in our society. I happen to believe, notwithstanding the fact that this can create problems from time to time, it is a very important evolution and is very much in the public interest.

The occasional inquest becomes dragged out and unwieldy. I can think of only two or three since I have been Attorney General and Solicitor General that have been unnecessarily prolonged. I believe that lawyers have not always acted responsibly in prolonging some of these inquests and in using them simply as fishing expeditions for matters that really are not related to the public interest. These abuses have occurred, but I do not think they warrant any significant changes.

While Dr. Marshall has been critical, I am not aware of any suggestions he has made for any

amendments to the Coroners Act. To my knowledge, he has certainly never written me as Solicitor General. I would certainly invite him and any other coroner in the system to communicate any useful suggestions they have in order to avoid the description of "unwieldy process." I think he is exaggerating in a very significant manner.

I think there were four incidents which were the subject of this article which appeared in the *Hamilton Spectator*. Inquests have been ordered, as I understand Dr. Bennett, in all but one, and the one in which it was not ordered involved a young, 13-year-old, woman. Given the nature of the police investigation and given the thoroughness of it, it was the view that it would have been very unfortunate to put this young girl through the emotional trauma of an inquest. That was the principal consideration, particularly when there did not seem to be any real doubt or question as to how the deceased had met his death.

The other three inquests are going ahead. One has been delayed because of the fact that there are criminal charges that have to be determined.

Those, in a brief overview, are my frank views. Dr. Bennett, who has a more intimate knowledge of the system on a day-to-day basis, might like to express some of his views.

Dr. Bennett: I would certainly agree with the minister. We average about 300 inquests a year and have for the last five years. Before the present Coroners Act was brought in, there were many more. The vast majority run through very smoothly without any problems whatsoever and with excellent results. I think the two that have come to the attention of the public were prolonged for certain reasons which the minister has mentioned. I would agree, I do not think the Coroners Act should be amended because two inquests could not be controlled properly.

Mr. Williams: Mr. Minister, you may recall a couple of years ago—I guess actually back in November 1978—there was a private member's bill before the House for debate dealing with an amendment to the Coroners Act. It had to do with a proposal to permit the coroner under a warrant to extract a pituitary gland of a deceased party to assist in the treatment of persons having growth hormone deficiencies. It was a bill along those lines.

Hon. Mr. McMurtry: It was not an amendment to the Coroners Act, as I recall.

12:10 p.m.

Mr. Williams: You are right. I stand corrected. You brought in the amendment to the Coroners Act.

Hon. Mr. McMurtry: Was it the Coroners Act? I am sorry, you are quite right.

Mr. Williams: It was a private bill, but you brought in a bill in a more appropriate form, I think, a couple of weeks later—the Coroners Act referred to on page 75 of the material before us. On December 15 that amendment was introduced by yourself and carried in the Legislature.

Mr. Mitchell: Mr. Chairman, we are trying to hear the question and at the same time there is a little bantering going on here.

Hon. Mr. McMurtry: I am sorry, I was provoked by Mr. Philip. I apologize to Mr. Williams.

Mr. Williams: The clock is running, Mr. Chairman. Let me go back and start again.

You brought before the House—and it was enacted as a consequence thereof—a bill dealing with an amendment to the Coroners Act, touching on the subject I have referred to. Absolutely no one objected to the humanitarian purposes and objectives of the legislation. I think the only area of concern and objection was expressed by some people, through personal conviction or religious belief, regarding the channels established in the legislation that allowed a coroner, under a warrant as a representative of the state, to extract a pituitary gland of a deceased without obtaining the formal consent of the next of kin if they were not available or if it was felt it would be difficult or impractical to seek them out.

The alternate argument or option put forward by those who argued against the bill solely on that ground was that a greater public advertising program, indicating the need for this organ for that particular purpose, would perhaps accomplish the same end without transgressing on the ultimate rights of the individual. That argument was made, and I am not going to go back into those lines of reasoning.

Hon. Mr. McMurtry: I would be happy to respond to those concerns, which are very understandable.

Mr. Williams: No. I am coming to a matter that has risen since then that I wanted to bring to your attention.

Hon. Mr. McMurtry: In respect to pituitary glands?

Mr. Williams: Yes.

Hon. Mr. McMurtry: All right.

Mr. Williams: I just wanted to refresh your memory about that situation and how I think the subsequent events are relevant.

Hon. Mr. McMurtry: I do recall the debate very well. It was a difficult issue.

Mr. Williams: Right, it was. I found two things of interest. I would appreciate your comments on them.

Within six months of that bill being enacted, an article appeared in the local newspaper, the *Toronto Star*, on July 12, 1979. If I might, I will quote from that article. The headline was, "Science Creates Hormone Dwarfed Children Need." It was a special byline out of Washington. The relevant part reads as follows:

"Using the latest genetic know-how, California biologists have made a breakthrough discovery that may help more dwarfed children grow to normal height.

"They have discovered how to make the human growth hormone, which normally is extracted from the pea-sized pituitary glands of corpses, to make a growth-boosting chemical for dwarfed children.

"Trouble was, the natural human growth hormone is in such short supply"—which is what the bill recognized—"treatment of some children has been delayed and they may never reach full height. The natural hormone could be obtained only in minute amounts. The new synthesized, human growth hormone brings hope to all those children on the waiting list, and may be available as soon as two years from now." I point out this article appeared back in 1979.

"The new chemical, discovered by a team of biologists at the University of California, also may prove valuable in the treatment of burns, wounds, bleeding ulcers, broken bones and in fighting bone deterioration in the elderly. The shortage of the natural growth hormone supply 'is one reason we think this development is so exciting,' said one of the discoverers, Dr. John Baxter."

I think that was an exciting piece of news. Unfortunately, I have not been able to learn what progress has been made in that scientific discovery and whether they have achieved a marketable form of this synthetic hormone. If it should become commercially available and acceptable, surely it would meet the need perhaps to a greater extent and more satisfactorily than was achieved by the amendment to the Coroners Act.

Having in mind that some objections were raised solely on the grounds of personal conviction,

tion and religious belief, if this scientific development is completely successful and the new hormone is made available, would you see the need for the act to remain in place as it is? If you were satisfied this was an appropriate alternative, might consideration be given to rescinding this legislation?

Hon. Mr. McMurtry: I was not aware of that article. I would be grateful if you could provide us with a copy of it. Perhaps we can find out fairly quickly what progress has been made in this development. Dr. Bennett is not aware of it. To our knowledge, it is not on the market.

We would be happy to learn what we can for two very basic reasons, one of which you have touched on. I want to come back to that. The other reason is that there is still a shortage of the hormone they have been able to extract from pituitary glands. While the legislation has increased the supply significantly, we still have a shortfall, so any development in this respect would be welcome. I think it is important to bring the members up to date with respect to how this program has worked. I am sure Dr. Bennett can enlighten you.

Notwithstanding the great concerns we had about passing legislation which did not require the consent of the donor's family, we did so because of the crucial need of these children with growth deficiencies. However, it is important to point out that, to my knowledge, there have been no complaints whatsoever with respect to how this act has been administered. It is a great credit to the coroners that they have been able to administer it in such a way as not to offend those who might be expected to have religious or moral objections relating to a donation of this type.

There have been no difficulties. Some orthodox rabbis visited me about two years ago, and I was able to assure them that the coroners would be sensitive and very cautious in this matter. I have encountered some of these rabbis from time to time since then, and they have never suggested that there has been a problem. It is well to note for the record that it appears to have worked out very well. Dr. Bennett, have you encountered any problems?

12:20 p.m.

Dr. Bennett: I am not aware of any complaints since the program was initiated. The coroners and pathologists are quite careful. Perhaps they are too careful because we are not getting as many as we should, considering the

number of autopsies which are done. We are constantly trying to increase the number because there still is a shortfall.

Mr. Williams: I will pass along through the clerk a copy of the newspaper article in question for your benefit. Perhaps it could be followed up. I will be most interested in knowing, as I am sure will the members of the committee, what progress has been made in this scientific accomplishment.

The counter-argument was developing the availability of a greater number of pituitary glands. It was suggested this be done through an aggressive publicity program by the government. Looking at the statistics, I am perplexed—Dr. Bennett has touched on it too—that in 1977, prior to the publicity and, more important, to the enactment of the legislation giving the coroner the right to issue a warrant, voluntary donations were in the neighbourhood of 5,700. In 1979, as a result of the considerable publicity, there was a significant increase in the number of glands harvested to between 6,800 and 6,900. But then—and this is what concerns me—there has been a significant drop-off. We are now back in 1980 to a total harvest of only 5,400 glands approximately. This brings it back not only to the pre-1978 figure, but to a lower level than what existed in 1977 when this legislation was not in place.

I am wondering why the need for the estimated 10,000 pituitary glands annually has not been met as a result of the legislation, which was thought to be the solution to the problem. Some people thought it could be readily accomplished by an aggressive publicity campaign. In retrospect, looking at the statistics, I pose to you that that might not have been the best route to go.

Just as a postscript, I agree that any suggestion of rescinding the legislation at this time is clearly premature before we know whether this scientific advancement is ready to fill the void. But I come back to the matter of possible alternatives since no great progress seems to have been made in increasing the supply as a result of the act.

Hon. Mr. McMurtry: We cannot give you the answer at the moment as to why there was this significant decrease between 1979 and 1980. We are trying to find that out. We know that some hospitals have changed their procedures. We are not sure to what extent this may have contributed to the decrease, but in the meantime our information program is pretty significant.

Our coroner senior staff speak frequently to

public meetings and to the media. I personally recall that four public service announcements were made for television in 1979 with respect to donations. These are still being telecast. In 1980, a telecast in the French language was also produced. I am told that a total of 3.5 million brochures have been printed in English, French and Italian for distribution and that this has been going on a continuing basis.

This brochure is distributed through a wide number of sources: hospital waiting rooms, doctors' offices, organ donor foundations, charitable organizations, driver licensing bureaus, supermarkets, shopping centres, libraries, police and fire departments, Ontario government bookstores, consumer information and publication centres, boards of education, liquor stores and many others.

It may be that we can improve our publicity program. There is a cost factor when it comes to advertising in the electronic media, apart from any public service announcements that might be carried. I certainly agree, Mr. Williams, that we should continue to maintain an aggressive campaign in this important area, so far as the donation of organs is concerned.

Mr. Williams: I appreciate your drawing our attention to the extent of the publicity given to the need for donations of human organs and tissues. I was not totally unaware of the extent of that program. I think the ministry is to be applauded for this ongoing effort. But in drawing those statistics and the activities of the ministry to our attention, what has not been made clear is that that promotional activity deals with a variety of donations of human organs and tissues. I do not think it necessarily highlights one need over the other.

In view of the fact that the need for pituitary glands seems particularly acute, I am wondering whether the informational literature singles out or highlights this particular need over and above the others. I am not suggesting there are not shortages in the other fields as well, but when I see the results and the fact that we seem to be losing rather than gaining ground in the number of glands that are being made available for this particular disease, could not some emphasis be given to the fact that pituitary glands, in particular, are in great shortage?

It brings me back to the fact that maybe an even greater emphasis on the advertising program for this particular sector would achieve a much greater result than what was done through the legislation.

Hon. Mr. McMurtry: I will certainly take another look at it, Mr. Williams, and see if we cannot revise our strategy in order to counter this unhappy decline that occurred between 1979 and 1980. I also hope to have more information as to why there was a significant drop-off.

Mr. Williams: I gather Dr. Bennett is not able to provide us with any immediate answers at this time, or is he?

12:30 p.m.

Dr. Bennett: I know the chief coroner was quite surprised when he got those statistics earlier this year. He attempted to find out why this occurred because of the existing legislation. The coroners and pathologists have been notified to firm up the program and take advantage of it whenever they can.

There were problems with the collection of pituitary glands, which might have been a factor. They have changed it from the preservative used to a fast-freezing method. Whether some were lost in this process, we are not sure. They all go to Winnipeg, where the hormone is extracted, so we sort of lose contact with the numbers that are sent out there.

Another reason was that the administrator of it, Dr. Bailey, from Sick Children's Hospital, was away on a sabbatical for a year. Possibly his influence was lost in collecting them.

Mr. Williams: Surely there must be some administrative control on such an important procedure that would indicate clearly, once a pituitary gland is taken, its whereabouts and those persons responsible for its care must be carefully recorded.

Dr. Bennett: They are taken from all over the province, naturally, in every hospital where an autopsy is performed—the medical legal autopsy at least—and then sent to the hospital in Winnipeg where the lab that extracts the hormone is located.

As I say, we do not have definite figures on numbers received and numbers in condition that would be suitable for extraction of the hormone. That might be a problem. I am just suggesting it. Dr. Cotnam has been looking into that over the last couple of months because he was quite concerned about the drop.

Mr. Williams: It gives me a little concern that there isn't closer control over the process of the glands from the time of taking to the time of

extraction of the hormone itself for its end-use purposes. Perhaps a report back on this could clarify that matter for us.

Dr. Bennett: As I say, he is looking into it, so we will have a report for you.

Mr. Philip: A supplementary.

Mr. Chairman: Yes.

Mr. Philip: If there was ever a need for "preserve it, conserve it," advertising it is probably in the donor type of advertising.

I wonder if you can tell us whether there have been any studies done on the percentage of the population that have signed the release on the back of the driver's licence. I know I have, but I wonder what percentage of the population generally has.

Hon. Mr. McMurtry: We can obtain this information for you as we do have the information. I do not know that we have it today.

Mr. Philip: Secondly, have you done any studies as to the best form of advertising, which may not be television and radio, but may be in the form of speakers at Lions Clubs or whatever? I would imagine that in something like this if you can get groups of people to recognize that it is a good thing and have them sign there on the spot, then you have them committed for at least three years anyway or whatever the life of the driver's licence is. It would be useful if we could know that.

Mr. Williams: I presume, Mr. Minister, we could have information back on the questions I raised that you did not have ready answers for today, particularly about the scientific progress that is being made in this area.

Hon. Mr. McMurtry: Yes. I will be happy to do that.

Mr. Mitchell: Mr. Chairman, I must admit my only knowledge of the coroner's office covers the last eight months, and happenings over the last eight months have not allowed a novice to become too much aware of what has been going on. If my questions appear to be those of one who is uninformed, in fact they are. I admit to that.

I have some questions about statistics, particularly relating to the number of recommendations that appear to have come out of the total number of inquests. I have difficulty understanding those figures. For example, according to this sheet, in September there were 31 inquests and 155 recommendations; recommendations implemented, 84; recommendations not implemented, 19; recommendations considered,

19 or 10—I can't quite make out the figure. Just on the basis of straight arithmetic, those figures do not add up to the total number of recommendations that came out of the inquests. Perhaps someone could explain to me just what this sheet is telling us.

Beyond that, a greater concern I have is the number of recommendations coming out of inquests that have been implemented. Does the coroner have the authority to order the implementation of these recommendations? What is the procedure followed? In a nutshell, I find it difficult to read the statistics. The numbers do not seem to add up to me. Perhaps someone can explain those numbers.

Secondly, as a novice—and there are several such here—I would like to know whose responsibility it becomes to make sure all the recommendations are implemented. What authority does the coroner have after one of these inquests?

Hon. Mr. McMurtry: It would depend on the nature of the recommendations. You can appreciate there is an enormous variety of them. They touch on a number of different institutions, public and private. Many of them would have to be introduced voluntarily simply because there is no statutory authority that I am aware of which gives the coroner the authority to order automatic implementation. Perhaps, Dr. Bennett, you would like to give us an overview of the process.

Dr. Bennett: The numbers do not add up because, as the minister has indicated, they might relate to a specific hospital or a specific hotel, but could apply generally across the province. The recommendations might have been implemented by the specific facility. At the same time, they may also be under consideration by similar facilities in the province and we are still waiting to hear whether they are going to be implemented or not.

Mr. Mitchell: I would still expect the total of all the recommendations—those implemented, those not implemented and so on—will eventually reach the total number of the recommendations that emerged. I have just glanced quickly through some other columns and they do not add up either, even if you do a cross check. That is why I questioned the statistics. What are they really telling us?

Dr. Bennett: The totals are there; the number that are implemented are there. The others are in limbo, let's say. They may cover more than one facility, as I said. I cannot give you a direct answer on that. When I questioned the verdicts clerk about it, that is how she explained it.

Mr. Mitchell: I think you can appreciate that anyone who looks at them will find that the figures do not add up in this particular instance.

12:40 p.m.

Dr. Bennett: As I mentioned, they cover a large number of facilities. What is specific to one might not be to another, or they might not be accepted. Perhaps if we looked at that number for September in two or three years' time, the total would be correct.

Mr. Philip: I have something supplementary to that. In February 21, 1980, the minister wrote to me in response to some questions I had asked on that very topic. At that time, I was as unknowledgeable about the process as you are, which is why I asked the questions. At that time, he said there was only one staff member who works full-time on the follow-up process.

You will recall that I had requested that you send to the MPPs in this Legislature any coroner's reports that reflected on matters in their ridings. My experience has been that one of the pressures for compliance with the Coroners Act is when it makes the newspapers. Then there is usually pressure on local government or corporations or whatever to take those steps that are necessary to carry out the coroner's recommendations.

Is there still only one full-time person to do the follow-up work? Who is doing it and what is that person's position or level? Is it a secretary or somebody in an executive type of position? Also, has the minister reconsidered the possibility of hiring sufficient staff to do a follow-up in order to advise MPPs of the recommendations relating to their respective ridings so that they can exert pressure or act as liaison to facilitate the implementation of those recommendations? One is a policy question; the other is for information.

Hon. Mr. McMurtry: I am not aware of any additional staff, but the administration certainly would require additional staff to sort this out. It is a question of dealing with a number of recommendations which do not directly touch on provincial legislation. They may be the responsibility of municipalities or simply beyond the purview of provincial legislation.

From an administrative standpoint, it would be a fairly onerous undertaking. Considering the additional resources that would be required, my concern at the moment is how many MPPs would really be interested.

Mr. Philip: An alternative suggestion, which I believe I made at the time, would be to file all of

the coroner's recommendations with a committee such as this, which would spend two or three days at some point during the legislative year to review some of these. Most of them will not be of interest. None the less, if somebody in an elected capacity had some responsibility for looking them over, I have the feeling that perhaps there would be more pressure for the implementation of these recommendations.

Hon. Mr. McMurtry: I do not quarrel with the usefulness of what you are trying to accomplish, Mr. Philip. Perhaps between now and Wednesday we can reflect on how we might effectively provide a central information bank that would be accessible to interested MPPs. I am rather inclined to the view that we should make every reasonable effort in that respect. Even if only a small number of members are interested, I think it is probably worth the effort. Perhaps what we could do between now and Wednesday is reflect on whether or not there should be some central information bank to make this information readily accessible not only to MPPs, but to others who have an interest in it. We will reflect on that and see if there is something we can do.

Mr. Philip: I must say that any time I have requested a coroner's report, I have never had any problem getting it. The problem is that there are probably others out there that just go ignored because the newspapers have not reported them. If we did have even a subcommittee of this committee that would periodically, maybe every six months or a year, sit down with the coroner and go over some of the recommendations, it would highlight some of those.

Some of them are impractical, meaning no disrespect to the coroner. But when you get to look at them on the local scene, the municipality can tell you reasons why they cannot do it, or a company can say why it is physically impossible to do something. That kind of review would be useful.

Mr. Swart: As a supplementary, Mr. Chairman, I am wondering about the wisdom of circulating members to find out how many would like to have this information. You might find not a great many would on a routine basis, with the amount of paper we have coming across our desks. Those who do want it then probably could be provided with it without a great deal of additional work.

Hon. Mr. McMurtry: We would certainly consider that, Mr. Swart. Between now and Wednesday, I would like my advisers to reflect on how complicated it would be to have some

sort of a central, relatively accessible information bank concerning coroner's jury recommendations. From there, we can consider what we might do with respect to circulating information to MPPs, as you suggested.

Mr. Elston: Mr. Chairman, I am not fully aware of the way the coroner's office is established. Are there permanent offices for coroners outside of Toronto, regional or district coroners who are full-time employees of the coroner's office?

Dr. Bennett: There are eight full-time regional coroners throughout the province. They have offices in various municipalities with a secretary. They supervise the coroners in their region—the 380 part-time coroners.

Mr. Elston: Do these eight handle the whole of Ontario? At least, Ontario is broken down into eight regions?

Dr. Bennett: That is correct.

Mr. Elston: Is there any indication of a need for more of these permanent offices for expansion of the regional coroners system?

Dr. Bennett: The regional coroners system was just completed earlier this year; so we are just seeing how it is working now. It seems quite adequate. I do not think we require any more.

Mr. Elston: It was done inside last year's program of the coroner's office then. There are no increased expenses as a result of that program?

Dr. Bennett: No.

Mr. Andrewes: I wonder if you could briefly outline the circumstances under which an autopsy is ordered, beginning with the time of death. Could you tell me from whom permission is sought for the autopsy, what authorities are required for the autopsy and, if organs are to be retained by the coroner's office, by what order these organs are retained?

Dr. Bennett: Are you talking about medical-legal autopsies specifically?

Mr. Andrewes: Yes.

Dr. Bennett: An autopsy is ordered by the coroner when he feels he is not completely aware of the cause of death or the circumstances surrounding the death, such as in a criminal investigation or a motor vehicle accident, or if there are civil actions following that. The authority comes from the Coroners Act, which says that at any time following a death a coroner can order an autopsy. Included in that

is authority for him to order an inspection of any of the organs or tests done on any of the blood or tissue fluids. That is where he has the authority to collect the organ.

12:50 p.m.

At times the organ must be retained because the pathologist cannot complete his examination at the time. The brain has to be put into a fluid. It is of a very soft texture and must be solidified slightly before it can be sectioned and examined. Sometimes the heart has to be retained so that sections can be taken of it. The authority is right in the act.

Mr. Andrewes: If a family member wished to recover that organ at some later date, is that possible and feasible?

Dr. Bennett: It is sometimes possible; it is possible at the present time. Usually the organ that is retained is cremated with other tissues that have been retained following examination. Sometimes they are kept for longer periods. If the family wanted to return it to the body, it can be done but there are a lot of technical difficulties there and it is a very costly procedure.

Mr. Philip: Do you have a specific case in mind?

Mr. Andrewes: I do.

Mr. Gordon: On page 80 you talk about developing training programs in forensic pathology. Is this in relation to the medical schools or in relation to pathologists who are in the field in the various regions? Exactly what are these programs and whom do they involve?

Mr. Chairman: I believe, Mr. Gordon, you are on item 5, forensic pathology.

Mr. Gordon: Yes, am I a little ahead of the game?

Mr. Philip: Let us carry this.

Mr. Chairman: I will hold that for a minute for item 5. Are there any other speakers on item 4?

Mr. MacQuarrie: Yes, I have a question dealing with the bodies provided to the schools of anatomy. I understand from the notes here there are eight in Ontario. On page 70 it speaks of the total number of bodies provided to the eight schools of anatomy in Ontario and others. I was just wondering what was involved in that phrase "and others," whether these were designated schools of anatomy outside the province or what.

Dr. Bennett: Some bodies are sent to St.

John's, Newfoundland, and some to one of the medical schools in Quebec. They are schools of anatomy that do not have an ample supply when there can be an excess number at a particular facility here. Certain arrangements are made between these schools.

Mr. MacQuarrie: You see some wills now and then that say they donate their body to "any Canadian medical school," or "a recognized department of anatomy"; so it gives some leeway.

Dr. Bennett: The family has to agree to this before the body is sent out of the province or to a school other than the one designated.

Mr. MacQuarrie: This leads to the next question, namely, the type of control exercised over the body after it leaves the province in terms of the master register and of disposition of the body after it has served its purpose.

Dr. Bennett: All schools of anatomy dispose of the body in approximately the same way. It is buried or cremated. Sometimes they have a mass service and the families are notified when this occurs. It they want to attend, they can attend. I am not sure, but I think this occurs in the out-of-province cases as well as the in-province ones. This is one of the stipulations.

Mr. MacQuarrie: For a body going to Memorial in St. John's, the funeral service or burial service is held then in St. John's?

Dr. Bennett: That is correct.

Mr. MacQuarrie: The family would be notified?

Dr. Bennett: That is my understanding of it.

Mr. Williams: I have one supplementary there, if I might, Mr. Chairman. Reference was made as to what is done after the school has completed its use of the cadaver. Following burial or cremation when they have used the body for medical research, a memorial service is held at the school, prior to which the next of kin are notified as to the date and time and place.

Who is charged with responsibility for conducting the memorial service? Is it a recognized member of the clergy?

Dr. Bennett: Yes. The professor of anatomy at each school makes the arrangements and they have a memorial service. It is a nondenominational type of service and is usually at the grave site, if it is a burial service. If it is a cremation, it is sometimes at the crematorium or at the university.

Mr. Williams: I presume that the next of kin

would have first choice to designate the clergy of their choice if they wish.

Dr. Bennett: Yes. They could actually take the remains and make their own arrangements if they so desired. In most cases, they prefer to let the schools complete the arrangements and attend the service. Apparently, they are well attended from what I have heard.

Mr. Williams: Who do the schools normally appoint to conduct these services?

Dr. Bennett: I could not really tell you that. I am not sure whether or not it is one of the chaplains from the university.

Mr. Williams: I would be interesting in knowing. Perhaps you can let me know.

Dr. Bennett: I could find that out quite easily.

Mr. Philip: On a point of privilege, Mr. Chairman: I believe that Mr. Breithaupt had a procedural motion he was moving earlier which was not dealt with. I think it is terribly important from the point of view of how this committee runs.

Mr. Chairman: What is the point of privilege here?

Mr. Philip: The point of privilege is that time is running out and I, as a member of the committee, would like to see that procedural motion dealt with. I would hate to have it not dealt with.

Mr. Breithaupt: Mr. Chairman, it was not really a motion; it was just a matter of seeing if we could divide up the time more or less so that we could deal with each of the votes in some manner. I do not think there are any more comments. We have effectively resolved this vote. I would imagine if it carries that will be just fine.

Mr. Chairman: Excuse me, Mr. Breithaupt. There is one more speaker on the topic, Mr. Bradley.

Mr. Bradley: Mr. Chairman, I was merely speaking to the procedure of that. I thought there was an agreement all along. We never really moved a formal motion, looking to the goodwill of the members of the committee in dealing with the other votes. It was just that we felt it would be useful to have equal time given to the other three votes in our remaining time. Are there still three votes remaining?

Mr. Chairman: Yes, that is correct.

Mr. Bradley: I thought that would be a reasonable proposition so that we could deal with those matters.

Mr. Williams: I do not think there is any objection to that. I did not hear any objection.

Mr. Chairman: No. That was the consensus of the committee.

Mr. Mitchell: We indicated that, I thought.

Interjection: We tried.

Mr. Chairman: Mr. Gordon, you have indicated you wished to say something.

Mr. Gordon: I have one more question, but perhaps it can wait until Wednesday.

Mr. Chairman: On item 4 or on item 5? I have you as the first speaker.

Mr. Williams: I move adjournment, Mr. Chairman.

Mr. Gordon: On the item we were going to vote on, on item 4.

Mr. Breithaupt: We would certainly be happy to have the question if that completes the matter. Go right ahead.

Mr. Gordon: Unfortunately, I have a luncheon date and I cannot keep the person waiting.

Mr. Williams: We should stick with the rules, Mr. Chairman and adjourn, it being 1 p.m., and take a minute or two at the beginning of the next sitting.

Mr. Chairman: Yes. As it has been noted that it is one o'clock, we will adjourn until 10 o'clock Wednesday morning.

The committee adjourned at 1 p.m.

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Ontario

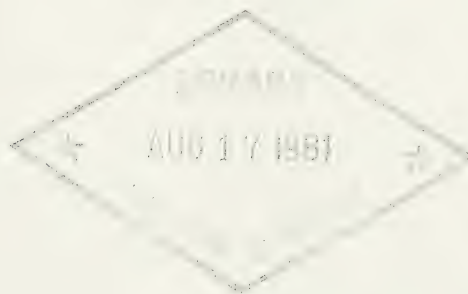
LEGISLATIVE ASSEMBLY

No. J-5

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of the Solicitor General



First Session, Thirty-Second Parliament
Wednesday, June 10, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, June 10, 1981

The committee met at 10:10 a.m. in room No. 151.

ESTIMATES, MINISTRY OF THE SOLICITOR GENERAL

(concluded)

Mr. Chairman: Gentlemen, we have a quorum. Mr. Breaugh, the NDP critic, has advised us he is on his way and begs us not to hold off convening the meeting for his sake.

Mr. Breithaupt: We have two hours and 14 minutes left. I know there are several more questions people have on vote 1702. Might I suggest that we agree that the 14 minutes or so will be spent on 1702? Then we will spend a half an hour on each of the next two votes, 1703 and 1704, and the final hour on the Ontario Provincial Police, vote 1705.

Is that a reasonable suggestion? In that way we can at least be sure we are able to cover the interests of various members in each of the particular areas, any one of which, I am sure, would have occupied the full eight hours if we had wanted and had been able to do so.

Mr. Chairman: Is there any discussion on Mr. Breithaupt's suggestion?

Mr. Piché: I want to speak to a point of order after this is finished. It is not on the same subject.

Mr. Chairman: We are trying to organize the remaining time to cover, however briefly, each and all of the items of the remaining votes. Is it the consensus that we try to follow Mr. Breithaupt's suggestion? Fine. That is agreed.

Now with regard to the number of speakers for each—

Mr. Breithaupt: I do not think it is necessary to do that, just as long as we know we are going to get on with 1702 in a few moments. Then we can see how it goes.

Mr. Chairman: What would happen if we were to reach 1704, for example, and someone were to lead off and take up the full half-hour?

Mr. Breithaupt: I think that would be most unfair and inappropriate. We should agree that the time is divided approximately into one third for each party. We would expect to do that because it is a matter of people, without party

label, all with particular interests and questions on the various votes. We should share the time equally.

Mr. Bradley: Keeping in mind that the official opposition has used by far the least amount of time in the estimates so far.

Mr. Breithaupt: I think we will work it out.

Mr. Chairman: Is it fair to say that the chairman may, without a lot of resistance, try to make the committee members adhere to this even distribution?

Mr. Breithaupt: I think it is a great idea, Mr. Chairman.

Mr. Bradley: We have a great chairman.

Mr. Breithaupt: I am sure it will work out well.

Mr. MacQuarrie: The time might more appropriately and fairly be divided on a per capita basis.

Mr. Breithaupt: That is an interesting subject, but it is not the usual practice.

Mr. Chairman: I think we would be getting down to seconds were we to have 12 persons on each of these subdivisions. The chairman might not be able to follow the sweep hand on the clock that closely.

Mr. Breithaupt: We will try not to dominate.

Mr. MacQuarrie: Presumably, we are sitting on the committee as individuals, not as party members as such.

Mr. Chairman: In fairness, at the beginning of each vote we will ask for the number of speakers and then apportion the time. Is that fair enough?

Mr. Breithaupt: That is just fine, Mr. Chairman.

Mr. Chairman: Shall we continue with the estimates?

Mr. Piché: Before we go on, Mr. Chairman, I have a point of order. At the last meeting Deputy Minister Hilton requested a copy of a flyer advertising emergency smoke masks distributed by a company named Smoke Survival Supplies. It seems that no government agency has approved the products they are selling to the public.

The smoke masks referred to are distributed in high-rise apartments. I would like the deputy

minister to take this flyer so that this matter may be followed up.

Mr. Hilton: Thank you very much.

On vote 1702, public safety program; item 4, coroners' investigations and inquests:

Mr. Chairman: I believe when we adjourned Mr. Gordon had not finished. Do you wish to resume, Mr. Gordon?

Mr. Gordon: We are all encouraged to indicate on our licences our agreement to allow our eyes and kidneys, for example, to be used in the event of death in an automobile accident. I have been told by some people in the medical profession this is all well and good for areas like Toronto where they have sophisticated equipment and numbers of doctors, which is not the case in the north. Despite the fact that we have the population to support specialists, few of them choose to come north.

What is the point of people in my part of the province, the Sudbury area, even indicating their interest in that procedure? It seems to me rather a negative situation when people learn it is just not feasible for them to donate something if they should happen to pass away at a young enough age, not having smoked, drunk or carried on in the normal fashion.

Mr. Barlow: What is normal?

Mr. Gordon: It is not what is normal, it is who is normal.

I would very much like it if the chief coroner or perhaps the Solicitor General would talk about that.

Hon. Mr. McMurtry: I am not quite sure I understand your question, Mr. Gordon.

Mr. Gordon: What is the point of encouraging the public to think that they can donate parts of their bodies when it just is not possible? Is this program to be only for those people who live in Toronto?

Hon. Mr. McMurtry: It was not my understanding this was not possible in the north. We have the chief coroner here, Dr. Beatty Cotnam. I am sure he can answer that question in a comprehensive manner.

Dr. Cotnam: You can divide this into two areas: whether you want to donate your whole body to a school of anatomy or to donate pieces and parts to the transplant programs. It is difficult to donate whole bodies from Sudbury, Sault Ste. Marie or Thunder Bay because there are no schools of anatomy in the north. I guess the nearest one would be in the University of Ottawa. The University of Ottawa does take

bodies from Sudbury and area, but has to pay the transportation expenses, et cetera. Because of its cost constraints today, the University of Ottawa tends to be satisfied with the number of bodies received from the general area, thus avoiding transportation costs.

In the transplant area, there is no reason why people in Sudbury or anywhere in the north cannot donate eyes, kidneys or a heart, if they fit into the appropriate category. They will go anywhere. Dr. Michael Robinette, of the Toronto General Hospital, instituted the Metro organ retrieval and exchange program to retrieve kidneys from anyone in the province.

10:20 a.m.

MORE is prepared to go anywhere in the province. If a doctor notifies them that a kidney is available, they will tell the doctor what to do until it is picked up. They have a specially equipped vehicle, donated by the Ford Motor Company, for use within about a 200-mile radius. Beyond that, they will go by aircraft. A team, sometimes including Dr. Robinette himself, will accompany the aircraft or vehicle. He loves to go on these trips because he doesn't want to miss a single kidney. The shortage of kidneys is acute, far worse than that of pituitary glands.

Eyes can be taken in Sudbury, Sault Ste. Marie, Thunder Bay, Kenora—anywhere. The containers are supplied by the Canadian National Institute for the Blind. All one has to do is put it in the container and ship it to the CNIB in Toronto. They are all used, I can assure you of that.

The difficulties are a little greater up north—there is no question about that—but they can be surmounted. Through our ministry and my office, a direct line to Dr. Robinette at Toronto General Hospital has been arranged. Dr. Robinette, as mentioned, controls the kidney program, but the line is open 24 hours a day to any doctor anywhere in Ontario who has received an organ donation. They phone is manned by a physician who will tell him what to do with what is on the donor card.

Item 4 agreed to.

Item 5 agreed to.

Mr. Chairman: Shall vote 1702 be carried?

Mr. Philip: Mr. Chairman, I believe the minister was to get back to me on this general vote on some questions I had asked earlier. I realize I was 10 minutes late and I apologize. Does the minister have an answer to that, or will that be forthcoming in the letter which will be sent to me later?

Hon. Mr. McMurtry: Mr. Chairman, it was my intention to provide some information to Mr. Philip today with respect to his questions last week. Dr. Cotnam has very kindly perused Hansard and has noted a number of items he is prepared to address briefly. These not only involve Mr. Philip's questions, but some issues raised by others. I think it would be helpful to the committee to have the advantage of Dr. Cotnam's review of last week's Hansard.

Dr. Cotnam: Mr. Chairman, I believe one of Mr. Philip's questions was whether there would be an inquest into the Whalen and Miller deaths, connected with the Rexdale fire. I had a meeting with the homicide detectives of Metro the night before last, and they brought me up to date on what is going on there.

I cannot reveal all the details of the investigation to date. All I can say is it is still under active investigation. There is no decision yet whether there will be an inquest. This depends on whether there will be any criminal charges laid. If there are criminal charges, there will not likely be an inquest. I would say, in the end, if they cannot fasten it down, there will be an inquest.

Mr. Philip: Is the inquiry being taken into a broader inquiry into the operations of an organization known as the Ku Klux Klan?

Dr. Cotnam: I cannot really reveal that. All I can say to date is, as you know, Mr. Whalen was a member of the Ku Klux Klan. That is common knowledge. They have found no connection so far between that and the Klan itself in relation to his death or to the Miller girl's death.

Mr. Philip: I do not want you to be giving any information that would in any way hurt the investigation. That is a satisfactory answer at present. If you can let us know of any further information you get that will not in any way jeopardize the police investigation, we would certainly appreciate finding out.

Hon. Mr. McMurtry: We will keep you advised, Mr. Philip.

Dr. Cotnam: Their opinion was the same as mine. If they do not arrive at any criminal charges in the end, there will be an inquest into the whole matter, but that is somewhere in the future.

Mr. Philip: If there are no charges laid, then there will be an inquest.

Dr. Cotnam: That is our feeling at the present time.

Mr. Philip: If there are charges laid, then it is up to the courts to decide. Is that right?

Hon. Mr. McMurtry: Yes. There could still be an inquest at a later date, but the charges will have to be disposed of first.

Mr. Philip: Fine. Thank you very much.

Mr. Chairman: Thank you.

Mr. Philip: I think there are other questions they were going to answer.

Dr. Cotnam: Mr. Williams and Mr. Philip asked several on pituitaries. I do not know who brought up which, but somebody brought up a scientific article on synthetic hormone. Mr. Williams, I think you provided a copy of that, which I have here.

In the meantime, I have talked with Dr. John Bailey, who is the chief endocrinologist at the Hospital for Sick Children and co-ordinator of the total program for Ontario for the treatment of pituitary dwarfs and where we get our hormone, how it is used and all the rest of it. I have asked him if he had seen this article, and he had seen it. I can tell you I have seen similar articles for 10 years now, and so has he. Every time they say about two years away, and again they have said about two years away.

He is not convinced of that yet. Hopefully, within two years we will have a synthetic hormone. He thinks it will be terribly expensive and that we should still be relying on the fact that we can get human pituitary glands from our own medical-legal autopsies in Ontario.

Mr. Williams: As I stated at the time, it was a rather nebulous time period, allowing for the fact they had suggested two years. Part of my inquiry, as you perhaps saw from the transcript, was as to a more specific way, how far along had they developed this particular synthetic hormone, who was taking the initiative in it, under whose auspices was it being handled and to what extent were resources on the US side being directed towards the development of this hormone.

I think I stated clearly at the time that it was not for the minister or anyone else to suggest that now was the time that this would be available. It is not even a marketable commodity at this time. I was most interested in knowing just how far they had advanced at the research stage. If further information could be developed for me on that basis, I would be interested in knowing. I appreciate that reading a newspaper article does not necessarily accurately reflect the time parameters that are involved because these things do take a lot of time and effort.

Dr. Cotnam: Dr. Bailey still feels that maybe within two or three years this synthetic product will be available.

Mr. Williams: Does he have a contact with the people who are actively involved in this project on the United States side?

Dr. Cotnam: Yes, he does.

Mr. Williams: Would he be able to get some updated information from them that would be a little more helpful in giving us some specifics?

Dr. Cotnam: I am in constant contact with Dr. Bailey about the whole pituitary program. He writes me letters updating this, that and the other thing. We talk about everything, not just this.

Mr. Williams: I am sure of that. I am just wondering how far the testing had gone in the United States on the development of this. Are they actually using it on humans or on animals, or has it even reached that stage?

Dr. Cotnam: I really cannot tell you that. I do not know whether he knows that or not.

Mr. Williams: That is the type of information I would like to have.

Dr. Cotnam: I could ask him if knows of further information on how far they have progressed on this. But he still thinks in the next two, three or four years we are going to have to be dependent on the hormones we get out of the medical-legal autopsies.

10:30 a.m.

Mr. Williams: I understand that. I would appreciate it if you could follow it up further and get some more specific information on how well they are progressing at the research stage on this program in the US.

Mr. Chairman: Gentlemen, for the edification of Messrs. Philip and Williams, before you came in, an agenda, a time table was agreed to. I am afraid the chair has to cut off the remaining questions, if any, of Mr. Philip, answered or unanswered, on vote 1702.

Mr. Hilton: Mr. Chairman, may we say we will provide answers in writing to those questions that have not been answered,

Hon. Mr. McMurtry: There were a number of other answers that Dr. Cotnam was prepared to give today, but we are in the committee's hands.

Mr. Williams: Mr. Chairman, with respect, I know we have to move on, but normally answers are provided to questions raised on a previous day if the information is available.

Mr. Philip: Maybe we could get advice on this from the clerk. Is it possible to have the answers tabled so that they would appear in Hansard, but not necessarily have to be read out?

Mr. Breithaupt: I do not think that is possible, Mr. Chairman. The answers would have to be read. If they just take a moment or two to complete the matter, that is fine.

Mr. Williams: Let's get it on the record so we have the answers. It would just take about five minutes.

Dr. Cotnam: I think Mr. Williams and others were very interested in why we had the big drop in pituitary glands. The first year we went up to 6,800 and the next year we dropped to 5,300. I think it is just a lack of publicity and so on. I cannot see any other reason for it. Again, I talked to Dr. Bailey. Even at the present number of glands, he has a sufficient number to treat all the dwarfs in Ontario.

Mr. Williams: He has a sufficient number?

Dr. Cotnam: He has right now, but he is afraid of that drop. He would not like to see another 1,000 or 1,500 drop. We have a new process now of extracting the hormone. The gland used to be put in acetone in the lab and sent to Winnipeg where they extracted it and sent it back to us for use. Now it is a freeze-dried method, and we get about a 25 per cent extra yield. That is like getting an extra 1,000 glands really.

Mr. Williams: So the argument put forward at the time the bill was coming forward that a minimum of 10,000 glands would be needed to meet the needs in Ontario is no longer valid.

Dr. Cotnam: Not now.

Mr. Williams: It would be somewhere around 7,500.

Dr. Cotnam: We aimed at that as sort of a panacea and thought we might get those. Of course, if there is any surplus in Ontario, they would be used someplace else, such as with eyes or kidneys or whatever.

Mr. Williams: So we are meeting the immediate needs at this time with that limited number.

Dr. Cotnam: There is no shortage at the moment.

Mr. Williams: That is interesting.

Dr. Cotnam: But we have to keep up with our promotional program to keep it at that level. I think we can increase it. It is a matter of more prodding to the pathologists and coroners to make sure they take these glands in each autopsy unless there is a refusal.

Mr. Williams: I suggested the other day a greater emphasis in our informational literature on the donation of all types of glands, with special emphasis on this area, would perhaps be helpful to increase the quantity of donations.

Mr. Chairman: Gentlemen, I have got a suggestion that perhaps the committee members might listen only to the answers, but not respond further, so that they can be placed on the record.

Mr. Philip: That is quite proper.

Dr. Cotnam: There was one statement made that pituitaries were in acute shortage and we could not make up the deficit. That is not true. We are far more short of kidneys and eyes than we are of pituitary glands and will be for several years, I think, as far as kidneys are concerned.

There was a question asked about the percentage of the population who sign consent forms. We really do not know. The people get them on the driver's licence. For nondrivers we send out forms from our office and handle requests from homes for the aged. We distribute them in English, French and Italian, by the way. We had three and a half million of those printed. A great many have been distributed. There are places where we send them all the time, or on a request or ad hoc basis.

As to the percentage of the population, there was a Gallup poll done in 1978 across Canada. That is the only thing I can go by. I do not know whether you have signed your driver's licence or not. There is no way I can ascertain that, but in the Gallup poll Ontario led the way with 18 per cent. Quebec was second with 12 per cent, and it went down from there. I think that is directly related to the driver's licence program. Ontario was the first to introduce it and Quebec was second. Now it has gone to other provinces. They are getting transplant stuff and organs and tissues in their banks.

Mr. Williams asked about memorial services and who conducts them. Do you want me to read that out or would you be satisfied if I gave you a copy? Perhaps the others want to know that also. We have done a poll of all the schools of anatomy that conduct these memorial services.

I have been to all of these universities many times. They have a proper plot in a proper cemetery for the remains of bodies from the schools of anatomy. They conduct proper services at designated times of the year, and they are well attended. Toronto had its the week before last and had to run three separate services so many people wanted to come to the chapel over at St. James crematorium.

The University of Toronto has a Rev. Charles Stornton who has been connected with the university for 40 years now. He looks after the bodies from when they come in until the memo-

rial service at the end. He is an ordained Anglican minister and a fine man. He also does it for the Canadian Memorial Chiropractic College in Toronto.

At McMaster University an Anglican minister, who is also a professor in one of the departments, conducts the memorial service. The University of Ottawa has a Lutheran minister from one of the local churches. The University of Western Ontario has an Anglican minister from a local church in London, St. Paul's Church. This goes back 50 or 75 years by custom. You must understand that these are all nondenominational services.

10:40 a.m.

At the University of Guelph they have a chaplain committee of the university. The services are conducted by the following in rotation: Protestant, Anglican, Dutch Reformed, Roman Catholic and Salvation Army. The University of Waterloo has an Anglican minister, who happens to be the chaplain of the university. Queen's University has a university chaplain, Rev. Lafferty at the present time. He has been there for years and years. They designate him as a Kingstonian. I don't know how long you have to be in Kingston to be designated in that manner.

Those are our eight schools of anatomy. I have seen all their grave sites and their stones. I have attended their services and I can assure you they are conducted in a good manner. The next of kin come out in great numbers. They are all notified of the date, time and place of the services.

Mr. Williams : Thank you very much, Dr. Cotnam.

Mr. Philip: There was the question of reporting the coroners' reports in a central location for the justice committee or some other body, or sending them to MPPs.

Hon. Mr. McMurtry: I am glad you mentioned that because I do have a response. I have discussed this with the deputy chief coroner.

Mr. Philip suggested that a subcommittee of this committee might be established to which these recommendations would be delivered on a fairly regular basis. We can accommodate that request. It is up to the committee to establish how it wants to handle it.

Mr. Philip: That is good news. I appreciate the minister's co-operation in this regard because it is something that I have been trying to get for a couple of years.

Mr. Chairman: Thank you, Mr. Philip. We have obviously run past time on that. In case my hearing was not too accurate on vote 1702, is that vote in its entirety carried?

Vote 1702 agreed to.

Vote 1703, supervision of police forces program; item 1, Ontario Police Commission:

Mr. Chairman: Before we start on that, how many persons want to speak or ask the minister questions about vote 1703?

Mr. Breithaupt: Mr. Piché, Mr. Elston, Mr. Williams.

Mr. Chairman: Anyone else? That is three?

Mr. Breagh: Mr. Chairman, I have some matters I want to raise and I am concerned we will not get to them in the course of the estimates. I am prepared not to speak on some items in order to get to some other votes. I have some concerns we will not make it.

Mr. Chairman: That was arranged before you arrived. Votes 1703 and 1704 each have one half-hour, which is 10 minutes to each party. Vote 1705 has one hour, one third of an hour to each party. We are going to break down the number of speakers and allocate the time at the beginning of each vote.

Mr. Breagh: Okay.

Mr. Chairman: We have only three speakers on vote 1703. We have half an hour. Therefore you have 10 minutes each. Mr. Piché, would you please lead off.

Mr. Piché: Mr. Chairman, I would like to go back to page 12 of the Solicitor General's opening remarks, where he said that in 1980 there were 269 visits to municipal forces in Ontario. I am bringing this to your attention because I was on the police commission for 10 years in my duties as mayor and I do not believe we ever had one visit from the police commission in 10 years.

I say this so I can go to the next question. I refer you to an article that appeared in the Toronto Star on March 26 this year, "New Squad to Probe All Ontario Police." I understand this was brought about because of the problem in the Tillsonburg police department where there is an investigation and where it is obvious to me the jury was out and in before this reaction came about.

I am just wondering about this new squad. It says, "The special squad of Ontario Police Commission inspectors has been formed to give closer scrutiny to methods of Ontario municipal police forces." This is what I do not understand.

Is it municipal and provincial or is it only a municipal force? Before you answer, if they are to probe, it rather puts a shady or a dark area around the municipal police force when an article like this comes out. Who investigates the Ontario Provincial Police when there are items that should be probed into, if you are going to probe municipal forces?

Hon. Mr. McMurtry: First of all, I would like to say on behalf of the chairman of the Ontario Police Commission, Mr. Shaun MacGrath, that he extends his apologies to the committee for not being here. He has not been well and his doctors have recommended that he take some time off. We have with us Mr. Stan Raike, a senior adviser with the Ontario Police Commission.

I might say at the outset, Mr. Piché, and I will ask Mr. Raike to augment my responses, I do not know whether the Ontario Police Commission visits the boards of police commissioners. I must admit that my understanding has always been that they dealt directly with the police departments. I have always assumed that, but I could be mistaken in that respect.

They certainly meet from time to time with members of boards of police commissioners, but when they visit a municipal police force, it may not necessarily, to my knowledge, include a visit to the board of police commissioners. Mr. Raike can perhaps explain that in a little greater detail.

The word "probe" that you refer to is an unfortunate term. It is not a term, to my knowledge, that was employed by the chairman of the Ontario Police Commission when he spoke about increased activities of the Ontario Police Commission with respect to monitoring police forces. I think some of the smaller forces, if not all forces, quite readily admit that the provincial umbrella agency can be of great assistance in monitoring some of their activities.

It is not really a question of probing for wrongdoing, as I think some of the media coverage indicated. A lot of the monitoring is related to the overall efficiency of a force. Record keeping and communications networks are areas of expertise in which the Ontario Police Commission can be of great assistance. During the course of their monitoring, if there appear to be practices being carried on that are not in the best interests of the local citizens, then this might very well come to their attention. It is the intention of the Ontario Police Commission to visit police forces more frequently.

10:50 a.m.

The relationship between the Ontario Provincial Police and the OPC is a close one inasmuch as they both are part of the Ontario government structure. The OPC is in touch with the Ontario Provincial Police on a day-to-day basis and in that way they are quite aware of what is happening with respect to the OPP. If there were an allegation of wrongdoing against the Ontario Provincial Police, the OPC could investigate.

Mr. Piché: But they are not under that umbrella.

Hon. Mr. McMurtry: No, they are two separate bodies.

Mr. Piché: There is a direct quote here from Mr. MacGrath in this same article, "We want more accountability." Because of one problem that happened in Tillsonburg—and I say the jury is still out on that matter—all of a sudden, all the municipal police forces, because of statements like that, could be tarnished. I can see there is a difference between municipal police and OPP. Both are fine police forces, but my feeling is that if the OPC is going to have a body go and investigate or work with a police force, it should be both of them. I cannot see why there should be that separation all the time, and in the future we could regret it. If you are going to have an umbrella organization to look into police, then it should be for both.

Hon. Mr. McMurtry: It is. There are two separate organizations. There has been more than one municipal police force that has been, unfortunately, placed under somewhat of a cloud. When we talk about accountability, what we have to remember is that the Ontario government in the final analysis is accountable to the people of Ontario for the quality of policing. Given our highly developed municipal structures which contain a great deal of expertise, the government of Ontario for some time has recognized that the day-to-day responsibility can be delegated to municipal governments and local boards of police commissioners, and that they are able to effectively represent the people of individual municipalities and carry out that responsibility.

Nobody quarrels with that, but in the final analysis the government of Ontario cannot abdicate its ultimate responsibility for the quality of policing in Ontario. It is, therefore, necessary to have a body that is capable of monitoring the effectiveness of policing throughout the province.

In some respects, because of the great confi-

dence that successive Ontario governments have harboured in relation to the ability to local councils and boards of police commissioners to discharge these responsibilities, a great deal of this authority is left on a day-to-day practical basis locally. This is the opposite to the situation in Great Britain where the central authority, by reason of conditional grants, keeps a much tighter rein and has perhaps a bigger stick, as it were, to apply with respect to enforcing standards on a day-to-day basis on local forces. We have chosen in our wisdom to go the route of unconditional grants which represents a delegation of greater responsibility to local authority than the situation in the United Kingdom with respect to local police forces.

I think our system has worked quite well over the years. We enjoy a standard of policing in this province, despite our problems from day to day, that is second to none in any other jurisdiction. The ultimate responsibility does lie with the provincial government. What we attempt to do on a month-by-month, year-to-year basis is fine-tune the system, while maintaining local autonomy to a very large extent, in order to maintain some reasonable degree of provincial accountability. This is basically what the Ontario Police Commission is trying to do. If the impression was created that the Ontario government is losing confidence in local police governing bodies, it was certainly not the intention of the chairman to communicate that view. I know that very directly from conversations I have had with him.

Mr. Raike, perhaps you would like to add something to what I have said with respect to the role of the Ontario Police Commission. Mr. Raike is a senior adviser and a former senior officer of a large regional police department. I think he can give us a perspective that might be helpful to the committee.

Mr. Piché: Before we get an answer, I would like to bring something else to your attention, a direct quote from Judge Graham. It has to do with the Tillsonburg probe or investigation. He is quoted as saying in another article on September 28, 1980, in the *Toronto Star*, "Senior officials at both the commission and the Ontario Provincial Police believe these allegations are only the tip of the iceberg and have repeatedly warned the Ontario government of the impending crisis." I would like this answered because what he is saying has happened in Tillsonburg could be happening in other places and that, to me, is very serious.

Also, Mr. Graham said, "The Ontario Police

Commission has long recommended that small forces be done away with. These forces cannot provide a complete service to their communities and we have said as much to the government." I feel these comments are unwarranted. Police forces across this province with which I have been involved all these years are doing a good job.

This comes back to a letter I wrote as mayor of Kapuskasing on October 30, 1980, to the Solicitor General.

Mr. Bradley: Did you get a reply yet?

Mr. Piché: I am afraid I did not.

Mr. Breagh: I am glad to see that everyone is treated the same.

Mr. Piché: That is why I thought I would bring this up here.

Mr. Bradley: Now I know why you ran.

Mr. Piché: I will just read the first paragraph of the letter. "We notice in recent press reports in the Toronto Star where, as a follow-up to that newspaper's investigation of the Tillsonburg police situation, reference is made to a report prepared by Emil Pukacz on the future of policing in the province." Then I go on to ask for a copy of that report because of the concern we had. We were also concerned and worried that because of this Tillsonburg matter people were overreacting on something that could be a major problem or maybe not. The jury result was not out at that time.

I never received a reply to my letter.

Hon. Mr. McMurtry: I am sorry, I have never seen it. Your letter never crossed my desk. We will see if there is any record of it in the ministry.

Mr. Piché: I would like to add that I checked with the municipality yesterday to make sure before I brought it up whether a reply had come in and I did not get it. That could happen also. I am told it did not. Of course, you could have never received it and I would not have received a reply. I do not know.

Hon. Mr. McMurtry: That is right.

Mr. Piché: Is this report available at this time?

Hon. Mr. McMurtry: Oh, yes. We have distributed the report widely throughout the province.

Mr. Piché: It is a public report.

11 a.m.

Hon. Mr. McMurtry: Very definitely. We will make sure you get a copy personally within the next 24 hours. I apologize if you made that request and there wasn't proper response.

I would like to comment on some of your comments in the last few moments. I do not know what the former chairman, Judge Graham, was referring to specifically. I do not recall those press reports. All I can say is Judge Graham did not communicate those concerns to me. He certainly had plenty of opportunity to do so. Did he communicate them to the Deputy Solicitor General, Mr. Hilton?

Mr. Hilton: No, he did not.

Hon. Mr. McMurtry: In any event, he may be referring, in part, to the task force on policing in Ontario, which reported in 1976. One of their recommendations was that all police forces, as I recall, for municipalities under 15,000 be phased out and replaced by regional police forces or expanded municipal forces, which really would become regional forces. That is a recommendation we chose not to follow for the reasons I outlined the other day, namely, that we believe the local community should have the right to determine whether or not it wants to maintain its own police force.

On the other hand, communities that want to enter into contracts with the Ontario Provincial Police for the provision of police services should be permitted to do so. We are a little concerned that the government as a whole, to be frank about this, should be able to establish a coherent policy in this regard.

We recognize that local police forces in some of the smaller communities, given the cost of policing and hardware required in this highly technical age, are not going to have this expertise or technology. That does not necessarily mean that they cannot provide effective policing. It depends on the nature and character of the community. We have chosen—and our attitude might change down the road—to leave the decision-making with the local municipalities as to whether they want to provide their own police department.

There are certain areas in the province where I am firmly of the view that police forces might well be combined. Again, I do not feel this should be imposed on the local communities against their will.

Mr. Breithaupt: Outside of the regional areas.

Hon. Mr. McMurtry: Outside of the regional areas, yes.

The Vice-Chairman: Are there any further questions on that? I think we have gone past your 10 minutes, Mr. Piché.

Mr. Piché: Can I buy your 10?

Mr. Breagh: What is the offer?

Mr. Piché: I would like to get some replies from the OPC. I have always believed that judges should be in the court room, not on police commissions or on jobs like this. I think they have enough work to do in the court room without taking on other jobs. To me, this is a direct conflict of interest. The minister knows my feelings on that.

Mr. Raïke: Mr. Chairman, I think you were asking about the future role of the Ontario Police Commission. Up until now, we have been very much a reactive organization. We have been reacting to certain situations and not doing enough of a pro-active role in heading off some of these problems. I would hesitate to use Tillsonburg as an example, but I support Judge Graham's suggestion that there are other problems out there. I would not suggest they are of the degree of the Tillsonburg situation, and I would rather not comment on that one. To that extent, we are very interested in heading these situations off at the pass rather than putting out fires, if I can use that expression.

In the matter of meeting with police boards or commissions or governing authorities generally—that includes committees of council—you are technically correct in that we do not visit them *per se*. We use a narrow interpretation of visit. We have a form and we tick off certain things on it. We check on certain procedures. To that extent in the past, we have not visited boards of commissioners of police. But we certainly have been contacting them, again on a reactive basis. I would say that more than 50 per cent of our work in the past has been responding to governing authorities' requests to see them for advice or to settle problems—things of that nature.

Mr. Breithaupt: If you visit a police force, do you, as a matter of routine, inform the local commission you are doing that? It would seem to me to be a courtesy and almost a responsibility that all three know what is going on.

Mr. Piché: How can a commission be responsible and responsible for police force decisions if they only meet with the police chief and nobody else?

Mr. Raïke: Our new role expressly insists that every adviser that goes must touch base—

Mr. Piché: No, I did not say must, but at least once in a while. Ten years seems like a long time.

Mr. Hilton: Since Mr. MacGrath has taken over the chairmanship he has laid out a new role, even to a change of name. Those who went

out before were called advisers. Now they are looking farther than just advising. They are being pro-active rather than reactive.

They are now endeavouring—and this is only within the last year—to contact the governing authority, be that the police commission or a committee of council. They are seeking to contact not only chiefs but the men so that they will understand what potential problems exist in that force.

Mr. Breithaupt: Do they do that as a routine now so that the local commission knows the OPC is in town?

Mr. Hilton: Yes, unless they are there in a reactive circumstance with a complaint against the local commission. They are not necessarily going to advertise their presence if they are investigating certain circumstances.

Mr. Raïke: If we go one step further, we will even be sending back to the local governing authority the copy of our visit report.

Mr. Breithaupt: I think you should.

Mr. Chairman: Mr. Piché, we have to move on. There are other speakers. In keeping with the spirit of the decision taken, Mr. Elston is down next. Have you basically had your questions answered, Mr. Piché? We gave you a lot of latitude.

Hon. Mr. McMurtry: Mr. Piché, I am now advised that our records indicate we did send you a copy of the Pukacz report. It was not received by you, obviously, and we will send you another.

Mr. Elston: Mr. Chairman, I notice that one of the responsibilities of the commission is to survey the adequacy or efficiency of the local forces. In that light, earlier I raised questions concerning funding, which has always been important to local municipalities. The Solicitor General had made comments that he had the information on a per capita grant basis. In terms of adequacy of funding, I wonder if you might comment on what you see as the role of financing for those local municipal forces.

Hon. Mr. McMurtry: That is a matter of policy for the government and should be directed to the minister responsible.

11:10 a.m.

Mr. Elston: I will just add this one more comment then before you answer.

In October or November of last year, you indicated you felt a study was being commenced by your ministry in relation to the problem we had raised about the difference between regional

and nonregional municipal per capita grants. I wonder if you have found out whether that study is under way, if there are results to be made available to us, or if you would undertake to provide us with that information.

Hon. Mr. McMurtry: I can tell you there was a decision of the government—a recommendation of Treasury approved by cabinet—to increase the per capita grants but to maintain the differential. As I recall, the interministerial committee was primarily given the responsibility of attempting to work out what I referred to before as a rationalization of policing agreements throughout the province.

I think that was the mandate I referred to specifically. It may have also included the differential, but the policy of the government has been to maintain that differential. I have been reasonably candid at expressing my concern about that. I would hope that somewhere down the road, in the not-too-distant future, we will have some recommendations from this interministerial committee with respect to how we might rationalize the policy of the government. As I said before, some communities receive free policing from the Ontario Provincial Police and some communities receive policing from the OPP by reason of a contract. Many communities have asked to enter into such policing agreements.

A lot of the problem relates to a determination as to which communities should receive, or could reasonably expect to receive, OPP policing without entering into a contract. It is a very complex matter because it really does require pretty careful examination of local tax resources. That is pretty well where the matter sits at the moment now.

Mr. Elston: Perhaps I could ask for some details of another study I am interested in. An article I read in the *Kitchener-Waterloo Record* refers to an OPC survey of police chases in the second half of last year. I am wondering if there is a survey of that type of information for the first half of this year, or if there will be one to keep us advised of the statistics on these chases. I might just point out that the article states that there were 1,015 chases. Three of these chases resulted in deaths and 124 people were injured in others, including 47 police officers.

This is the type of information we should keep in front of us when we are trying to determine whether the guidelines which have been set out for police chases are working. I wonder if there is anything on the go now.

Hon. Mr. McMurtry: My understanding is that all forces are to report to the Ontario Provincial Police with respect to these chases. I am not sure just what the time frame is, whether it is on a monthly or quarterly basis. Again, I have invited members of this committee and members of the Legislature generally to look at the guidelines we have sent out from the Ontario Police Commission. We would welcome any suggestions to improve these guidelines.

As I said at the outset, we do not pretend to be the fount of all wisdom with respect to a very complex area. If these guidelines can be improved upon I welcome any suggestions because it is a matter of great concern to police forces. Police officers risk their own lives and safety on a day-to-day basis by engaging in these chases. The vast majority of police officers, like most human beings, do not wish to take unnecessary risks unless they believe their public duties require it. One should not lose sight of that fact.

The way this issue has been debated from time to time, the impression has been created that we have thousands of police officers out there who are just waiting for the opportunity to engage in a high-speed chase. The truth of the matter is police officers get killed and seriously injured in high-speed chases—

Mr. Elston: I understand that.

Hon. Mr. McMurtry: —and it is not a risk they entertain lightly or frivolously.

Mr. Elston: I think though you suggested a certain psychology is also being developed by the entertainment industry, which you pointed out causes difficulty in controlling at least some of the less experienced officers.

Hon. Mr. McMurtry: We cannot prove it. When I say that the entertainment industry, by behaving so totally irresponsibly in this area influences younger drivers throughout the province, I cannot deny that this influence could even affect the occasional young police officer. Police forces are very vigilant in monitoring this.

Mr. Elston: I know about your concern and we are concerned, not only for the police officers but also for the citizens at large. Could you give us some undertaking to provide us with updated data on the more recent figures? I know you probably do not have them with you now, but if you could undertake to do that it would certainly keep us advised of the results of the guidelines being applied now.

Hon. Mr. McMurtry: We compile them every six months. We can table those figures in the Legislature. As part of this process, we also continually remind our crown attorneys—or the Solicitor General does in his capacity as Attorney General—to press for substantial deterrent sentences in all cases involving high-speed police pursuits, regardless of whether death, injury or property damage results. There has to be a deterrent aspect as far as the courts are concerned to reduce the incidence of high-speed chases.

Mr. Elston: I wonder if I might switch to another area.

Mr. Breaugh: Before you move on, could I just pursue this for a moment because it has been a matter of some concern with me for quite a while? When we began the process we talked about chases and guidelines and things of that nature. I think this is within the jurisdiction of the Ontario Police Commission. I am aware that several people have discussed it with the commission from time to time.

I do not understand why, in the handling and use of weapons by the police, we in this province are very explicit about the type of weapon used and the type of ammunition used. We study ballistics; we study what kind of weapons they should have; we train police officers extensively in the use of those weapons. The purpose of the exercise is not to encourage an officer to use a weapon, but rather to make sure that when he or she does use that weapon it is in complete knowledge of what the weapon will do, what its capacity is, what damage it will inflict, and to see that the officer is thoroughly trained in the use of that weapon.

11:20 a.m.

I have read your guidelines on police chases and they seem fine to me. We all recognize that no matter what you or I say or do there are going to continue to be over 1,000 chases of some kind in a six-month period; that has been fairly consistent. Yet we do not have standards for the vehicles they drive. In every other way, right down to the shoes and the boots they wear, we set standards. Why don't we set standards for the vehicles themselves? We know that the vehicles they drive are, by and large, standard production-line vehicles, not suited for high-speed chases at all.

You raised an interesting point at the beginning of the estimates about your policy of not

training officers in high-speed driving because you do not want to encourage them to do that. I would like to pursue that point.

Hon. Mr. McMurtry: We encourage them in safe driving.

Mr. Breaugh: I want to make the distinction there. I am in agreement that we should train police officers to be good, safe, courteous drivers. That is a good thing to do. But the fact of life is, no matter what anybody sets as a policy, no matter what guidelines are put out, a police officer is likely to be involved in a high-speed chase at some time in his career, just as he is likely at some point perhaps not to discharge a weapon but to use a weapon.

We train the police extensively on the use of weapons, but we do not train them extensively on driving a vehicle at high speed. It confounds me that we would be so methodical and analytical in one aspect of a police officer's job and so casual, if I might say so, in another aspect.

For example, when local police forces are tendering for vehicles, why do we not acknowledge that sometimes those vehicles will be used for high-speed chases and are not designed for that? Secondly, why do we not train our officers as some forces do? Some regional forces do train their officers in high-speed chase techniques. Why don't we do that?

Hon. Mr. McMurtry: This is a controversial subject. We want to err on the side of safety.

Mr. Breaugh: If I could interject, that's precisely my point.

Hon. Mr. McMurtry: What you are not recognizing is that so far as the Ontario Police Commission is concerned, to have police officers pursuing in souped-up automobiles, engaging in skidding techniques of one kind or another, et cetera, on balance, is probably not the right sort of training. There is a point at which police officers have to abandon a chase and make greater use of their communications system.

We prefer to emphasize the fact that police officers are not going to travel at an Indianapolis 500 speed, using all sorts of skidding techniques and what not. It is a judgement call. We realize there are arguments on both sides. But there is a point beyond which the danger to the public is unnecessarily great in relation to the importance of apprehending the criminal. We think the trade-off—public safety against apprehending the suspect—obviously gets a little out of balance.

I recognize there is a great deal of interest in this issue. I understand the interest and I do not quarrel with it, but we think the emphasis should be on the police radio network. At a certain point, you are much better off concentrating on alerting police officers who may be in the area to intercept, rather than driving at excessive speed and related techniques.

I should like to read into the record, as quickly as I can, a page from the manual that is used in training at the Ontario Police College, under the heading, Pursuing and Stopping Vehicles.

"Police officers are constantly faced with the task of pursuing and stopping vehicles. The reasons for pursuit may vary from a desire to carry out a routine check to the apprehension of a wanted criminal. This phase of police work can be extremely hazardous to the officer and to the public and has resulted in serious injury and death to both.

"Undoubtedly, the officer must take certain risks when in pursuit of vehicles, but he should first calculate the risk to be taken against the degree of importance placed on the apprehension of the person pursued and govern his actions to suit the circumstances as they pertain to that incident. Certain factors should be weighed and a course of action decided upon that will least endanger the safety of the officer and the public, but still accomplish the original purpose. The procedures, as defined herein, will do much to minimize the dangers of pursuit and apprehension.

"When to pursue: The factors to be considered by an officer when deciding whether to pursue a vehicle are:

"1. Seriousness of offence: If a dangerous criminal is escaping in a vehicle and an emergency situation is present, it requires extreme measures to apprehend the culprit. Pursuing a vehicle at high speeds for a minor violation, and especially so when the identity of the offender is known to the officer or can be obtained later, would hardly justify the danger involved in this type of pursuit.

"2. Traffic, weather and road conditions are important factors in deciding the value of pursuit. Congested traffic, heavy snow or rain and slippery streets would reduce the chances of successful apprehension and present extreme hazards to the pursuing officer and the public. The officer must weigh the advantages of apprehension against the dangers involved in pursuit in the foregoing circumstances. Speed of offender's vehicle, capabilities of police

vehicle, direction of travel and whether the officer is more importantly occupied with a previous detail will all influence the decision of the officer to pursue."

It goes on to talk about the use of the radio, keeping the dispatcher informed, and also deals with certain basic driving techniques. I do not want to give you the impression that this is not talked about at all. It says: "Driving Techniques: When a pursuit of a vehicle requires a combination of driving skills, sound judgement and safety precautions, the following points should be considered."

There are a number of suggestions related to stopping the vehicle—the angle of the road, turning the steering wheel as far as possible counterclockwise, et cetera. It also deals with proper use of acceleration, manoeuvring space, use of siren and lights; hazards to watch for during pursuit, such as cars entering roads, pedestrians, children at play, intersections, lanes and alleys; exhaust from cars in winter indicating a vehicle is about to leave the curb, traffic signals and signs.

All of the foregoing are gone into in great detail. I think it is important to emphasize the fact that the Ontario Police College does take great care in instructing officers in the matters to be considered and the general driving techniques to be employed as opposed to actually training officers to drive at very high speeds, skidding techniques and so on.

Mr. Breaugh: I am in agreement with all of that. I think that is all very important. But I still cannot for the life of me understand why we take an officer who is untrained in pursuit, who does not even know his his own physical limits at high-speed driving, and put him in a vehicle which is not built to be driven at high speeds.

This may have happened on some small forces, but I would not, and neither would you, dream of taking someone who has never even seen a weapon, putting a badge on him, giving him a gun and saying, "Out you go, you are now a police officer."

11:30 a.m.

We don't do that. We go into great detail about the type of weapons and the kind of training they should have. We make them familiar with those weapons. I cannot understand why we do not take a more sensible attitude in the matter of high-speed chases. They are going to occur, whether we like them or not.

Hon. Mr. McMurtry: You are basing your remarks on some fundamentally false assumptions. We do not put untrained drivers behind wheels of police vehicles.

Mr. Breaugh: That is not what I said.

Hon. Mr. McMurtry: We do not ask them to drive at speeds for which the vehicles are not suited. Coming from the area you do, you probably have a more intimate knowledge than I of the workings of standard automobiles. But police officers are not encouraged to drive at speeds for which these particular vehicles are not constructed.

Mr. Breaugh: Have you done any studies? The Durham regional force had several incidents of high-speed chases and examined the results, which were not surprising. In one incident about three years ago, they lost about six vehicles in one chase, which is a lot of money. They looked at the vehicle at fault and said, "It's no wonder this vehicle spun out. It is not designed to be driven at that speed and the officer was untrained."

They then sent some of their officers—I do not believe all of them have had this kind of training—to a driving school at Durham College of Applied Arts and Technology, where they received training in high-speed driving techniques, how to recognize their physical limits as officers, and in the limits of the vehicles they were driving, which is equally important.

Those officers, it seems to me, have been given training in the use of vehicles similar to the training given in the use of weapons. It would seem that produces an officer who knows his or her limits and the limits of the vehicle that he or she is driving. That, to me, is a good thing.

The other side of the argument, forgive me for saying so, appears to be a defence, which says if they do not know how to drive a vehicle at high speed, if they do not know their limits, it is safer than if they do. I cannot comprehend that.

Hon. Mr. McMurtry: Nobody has suggested that. To our knowledge, individual police forces require that officers who are driving vehicles know the limits of their vehicles. That is assumed.

Mr. Breaugh: How do they know? How can they know?

Hon. Mr. McMurtry: Because they are told.

Mr. Breaugh: But they have no training.

Hon. Mr. McMurtry: That is not right. They do have training. That is all part of their being trained in safe driving as opposed to driving at

150 miles an hour. They are trained, they are trained, they are trained. I do not know how many times I have to repeat it.

Mr. Breaugh: What you have said is a good example. There is not a production vehicle in this country which will do more than 90 miles an hour, and they are not likely to be driven at 120.

Hon. Mr. McMurtry: It would be rare for a police officer to drive, I would think, at more than that speed. We assume that most of the offenders—with some exceptions, I suppose—engaged in high-speed chases are driving the same types of automobiles.

Mr. Chairman: Mr. Minister and Mr. Breaugh, may I cut this off, please?

Mr. Williams: That was just a supplementary.

Mr. Breaugh: Give me a chance to ask a real question some time.

Mr. Chairman: Mr. Elston, are you finished with your question to the minister?

Mr. Elston: I have one more brief question. I note that there are three intelligence officers who are charged with keeping the public aware of the existence of organized crime. Could we have some information as to what they do? I am not aware that the public is too aware of organized crime. Perhaps we could have a brief comment on that.

Hon. Mr. McMurtry: Perhaps the best person to address this question to—and he is here, prepared to answer—is Assistant Commissioner Archie Ferguson, who is in charge of the special services branch of the Ontario Provincial Police. He will come forward now if you want.

Mr. Chairman: Mr. Minister, might I interrupt you, with respect, and state that should be under vote 1705, item 1. Special services are going to be dealt with under that item, so may we hold the gentleman off to that point?

Mr. Hilton: There are two aspects, Mr. Chairman. There are the aspects of the OPC and the aspects of the OPP. The working of the OPC special services is a liaison between various municipal forces and joint force operations where the investigation is being conducted, say, by a municipal force, the RCMP and the OPP; it is a liaison operation.

Mr. Elston: The real question then, to make it short, is: Are these officers actually making the public aware? I just have not heard of them operating. Are they operating in specific areas?

Mr. Hilton: No, they operate out of headquarters and they operate, as I say, in a liaison way, but the actual operation is carried on primarily by OPP, the RCMP or municipal force.

Mr. Elston: Yes, I understand that, but how do they make the public aware? That is a short question. Are they out speaking to interest groups?

Mr. Hilton: No, the type of information they would be gathering is not a matter of public information.

Mr. Elston: I was just looking at the objects there. It says, "to keep the public aware of organized crime." I had never heard of them being out making anyone aware of it and I wondered if these three officers who are on staff doing that are not carrying out that portion of their program because of certain restrictions. That is the only thing.

Mr. Chairman: If it is relevant under vote 1705, you might speak to it under item 1.

Obviously, if anyone has been watching the clock, we are in terrible shape as far as any structure is concerned. If Messrs. Williams, MacQuarrie and Gordon, who have asked to speak—the last two belatedly—do wish to speak on this, might I ask you to try to limit yourselves to perhaps two minutes each, and the minister similarly to two minutes? Otherwise we will never get past vote 1703, item 1.

Mr. Williams: I think two minutes is a little unrealistic, Mr. Chairman, with respect. I think we will all try to keep the questions short but it may take two minutes to get a question out.

Mr. Minister, I just wanted to take you up on an invitation you extended to the members of the committee in your opening comments to discuss with you what you termed to be a sensitive matter. I am referring in particular to the report of Judge John Greenwood dealing with the police use of firearms, a report which was submitted to you last November and which deals in some measure with emergency preparedness and training of police officers.

It is my understanding that while in that interim period up to April this report has been reviewed at length by your own staff and that subsequently it was made available and distributed to the public and police forces and commissions and so forth, you are still awaiting comment from those interested parties and no further action has been taken. In fact, I do not think this report was ever tabled in the Legislature.

I think it is important we spend a few moments on the report to try to determine its status and, more particularly from my point of view, to try to get some answers to some questions I find of interest, having read the report in question.

It appears the recommendations really break down into three categories: a provision that the regulations and controls as they presently exist, particularly regulation 679, be amended; the others deal with equipment and there is a suggestion there be some revision in the type of equipment used; and in the training and standards to be applied in the use of existing equipment or modified equipment that may be recommended for adoption and use.

11:40 a.m.

I must say, Mr. Minister, first and foremost I was somewhat surprised to find that you have rather limited authority, as the chief law officer of the crown, when dealing with any of these situations where there has been a discharge of firearms, the circumstances of which require a report to be filed. It appears that while you are given some authority to take whatever action is considered necessary in those circumstances, the action you can take is very vague and appears to give you very limited authority.

I understand one of the major recommendations in the report which would perhaps improve upon that unsatisfactory situation is to vest the responsibility and the sole authority for conducting these investigations and taking whatever punitive action may be deemed necessary with the Ontario Police Commission itself. I believe that body would have sole responsibility for investigation and conducting the hearings, which would be carried out publicly.

I have not seen any objection to that in the briefs that were submitted, neither am I aware, after having read the material, that any ultimate suggestions were made. I was wondering what response there has been to that recommendation from the judge.

I would also ask your comment with regard to any feedback you may have had with regard to the somewhat controversial recommendations suggesting the use of open-type holsters and the use of a much larger baton for defensive purposes than is presently being used by the police officers. It seems that this has sparked some concern amongst the public.

The report does not make clear how extensively the open-type holster is used by other law enforcement agencies in neighbouring jurisdictions. I was not able to glean that information from the report. Certainly there were some briefs submitted that indicated their use would be very beneficial from the point of enhancing the safety of police officers in certain situations.

I was surprised that neither the submission made by the Ontario Police Commission nor

that of the Police Association of Ontario suggested these initiatives, as far as I could see. Rather they commented on the types of firearms and ammunition that were used, but not the actual holstering of the firearms. From studying reports from other jurisdictions it seems the judge must have thought there were decided advantages to using the open-type holster.

Perhaps you could comment on those issues and then I could come to the training and standards, the third part of the recommendations.

Hon. Mr. McMurtry: I will just make some general observations, Mr. Williams. This is a very important report, there is no question about that.

Mr. Raïke, who is here from the police commission, was very much involved in assisting Judge Greenwood in providing him with the necessary information, through the Ontario Police Commission, that might be relevant to his report. Perhaps he could answer some of the questions you may have with respect to the ongoing situation in other jurisdictions and explain any of the technical data.

Mr. Williams: Particularly the thumb-break. I just was not familiar with how the thumb-break works, as referred to in the report.

Hon. Mr. McMurtry: Yes, on some of these technical matters I probably could use a little more assistance myself. But with respect to the implementation of the report, there is no question that some of the recommendations are controversial. We know, from a meeting I had with the chiefs of police recently. I detected some differing views within their ranks.

But the report is an important report. It merits a great deal of careful consideration. The first stage, of course, is to invite response from police forces across the province and other interested groups. These responses are forthcoming at a fairly significant rate and they will be very carefully reviewed.

The point I am trying to make is that we are not going to move with any undue haste in this area until the whole report has had a very full review by all interested groups.

Mr. Williams: What time frame are you looking at at the present time, Mr. Minister?

Hon. Mr. McMurtry: I would think that certainly no decisions would be made respecting implementation of the report much before the end of the year. If it is necessary for increased authority to be given to the Ministry

of the Solicitor General or to the Ontario Police Commission with respect to the discharge of firearms that has not led, of course, to any criminal charges, then this is a statutory framework that can be provided by the Legislature. If it appears that enhanced authority is required that can be provided by the Legislature.

But again, one has to approach this whole report with the recognition that before we make any significant changes we have to be certainly persuaded they are merited. Because notwithstanding the fact we did have an unhappy number of incidents in Metropolitan Toronto over a period of a year, which many of us said probably was just an unfortunate aberration that occasionally happens in any field of human conduct, our experience in this province has been that given the size of the province, the number of police officers, the challenges facing law enforcement authorities, police officers have shown a very high degree of responsibility when it comes to the discharge of firearms.

Before we make any significant changes we have to be persuaded they truly are in the public interest. Of course, the public interest is effective law enforcement, so we are going to look at the whole thing pretty carefully.

Mr. Raïke can perhaps answer some of your technical questions, or give us additional information with respect to anything the commission learned in relation to regulations in other jurisdictions.

Mr. Williams: Yes, I would like to hear that, if I could.

Mr. Philip: On a point of order, Mr. Chairman. I think we have been for an hour on the last vote and I notice that part of that time has already been taken up. I wonder if we can move on to the last vote.

Mr. Chairman: In fairness to all concerned—sorry, sir—I think we must move on without your question and without the expansion being provided, Mr. Williams.

Mr. Williams: Mr. Chairman, I think at least we are entitled to have an answer to some questions that have been put. They were quite specific and I am sure that the—

Mr. Chairman: But there was an agreement, Mr. Williams, at the beginning as to the explicit time that would be allowed on each vote.

Mr. Williams: That is right, Mr. Chairman, I acknowledge that. I think you have been very generous with all of us on all sides. We have gone somewhat beyond our time and I—

Mr. Chairman: I might say I was the most generous with Mr. Piché, a PC member. The other, Mr. Breaugh's supplementary, more than used up their time. But I have been more than generous with Mr. Piché. I do not think I can—

Mr. Williams: If you could allow two minutes for an answer, I think that would be satisfactory.

Mr. Breaugh: Could I suggest that we get a response here and then at 12 o'clock the committee agrees it will take one more hour, until one o'clock and—

Mr. Chairman: No, we must stop when the bell rings at 10 hours. We must cease.

11:50 a.m.

Mr. Breaugh: I am aware that there is certainly ample precedent that if the committee felt that an extra 20 minutes or half an hour would make everyone happy and conduct the committee's business—

Mr. Chairman: I believe not, Mr. Breaugh. The standing orders are specific. They say the question must be put at 10 hours. That is—

Mr. Breaugh: I believe you will find ample precedent for a committee ordering its own business and that although the standing orders are generally held to be the orders under which a committee will conduct its business, it is also very clear there that the committee does have the authority to order its own business. That includes the extension, for brief periods of time—it is not intended that you could take an extra three days or something, but an extra few minutes has certainly always been held to be agreeable.

Mr. Chairman: Mr. Breaugh, as the committee is an instrument or an arm of the House, and the House has allocated an exact number of hours to us, substantiated by the standing orders, the chair is going to rule that when the clerk advises me the 10 hours is up the question is going to be put. That is why I have been pressing strongly to go along with the agenda as set out at the beginning of the meeting.

Mr. Philip: Is it not possible, Mr. Chairman—and there has been precedent for this in this committee—that while the vote could be taken at 12:30 there is nothing preventing this committee, with the co-operation of the Solicitor General and his staff, of sitting for an extra half hour to deal with any questions and answers the committee wishes to discuss.

We can vote the money to the Solicitor General and technically finish his estimates, but if the Solicitor General wishes to remain with us

to discuss some matters and give some answers, then there would be nothing preventing him and the committee from doing that.

Mr. Chairman: I would like to hear from the minister and from other members as to how they feel about this sitting past our mandate, so to speak.

Mr. Breaugh: Could I assist you by putting a motion that the committee sits and deals with the final vote in this matter from 12 until one today and that at the end of that period we consider the vote to be carried? This is something we have done in the—

Mr. Chairman: Again, you are distorting the ruling I have already made. No, the question will be put at 10 hours.

Mr. Breaugh: With all due respect, I appreciate your having a little difficulty chairing the thing, but—

Mr. Chairman: I am having no difficulty with that ruling. It has been made, Mr. Breaugh.

Mr. Breaugh: I just wish you would take these matters under some consideration rather than make a ruling off the top of your head. We have used this technique in other estimates.

Mr. Chairman: I have considered this well over the last two weeks as to what would happen at 10 hours. In fact, I inquired into it; it is not off the top of my head.

Mr. Breaugh: If you want to do it, go ahead and do it.

Mr. Williams: I think it is arguing against the ruling of the chair. I think we should press on.

Mr. Bradley: You are the last person to talk about wasting time, John. We all know what has been going on for the last few days in these estimates.

Mr. Williams: I think that is uncalled for, Mr. Chairman.

Mr. Bradley: He introduced it first of all—

Mr. Williams: I really think that was—

Mr. Chairman: Order.

Mr. Williams, if you wish to have your questions answered you must take it up outside of the meeting.

We are now on to the next one. Mr. MacQuarrie, Mr. Gordon, would you—

Mr. Williams: Mr. Chairman, could we just have that one answer to that question about the open holster, sir? It would have taken a minute to answer and he could have answered it five times over during that procedural wrangle. I think it is most unusual to stop in midstream

when a question is interrupted and not to get an answer. Could we please have that answer for the open-holster situation?

Mr. Chairman: No, Mr. Williams, we may not.

The chair rules we move on to Mr. MacQuarrie. Will you please make it very brief, and Mr. Gordon thereafter—very briefly, please.

Mr. MacQuarrie: Mr. Chairman, I have three or four very brief questions. Included in the duties of the three intelligence officers who were referred to earlier is to "accommodate. . . the CISO repository of criminal information." Is the police commission in charge of that repository or is it the OPP?

Hon. Mr. McMurtry: I am sorry, what is that?

Mr. MacQuarrie: The repository of criminal information.

Hon. Mr. McMurtry: Yes?

Mr. MacQuarrie: Who looks after it?

Hon. Mr. McMurtry: The Ontario Police Commission co-ordinates that aspect of the intelligence network.

Mr. MacQuarrie: How closely connected is it with the Canadian Police Information Centre, or CPIC, as they call it?

Hon. Mr. McMurtry: It is very closely connected.

Mr. MacQuarrie: In police training—on page 84—at the Ontario Police College we have among courses offered only one listed, recruit training. Presumably there are other courses offered; I wondered what they were.

Hon. Mr. McMurtry: We have fairly a significant calendar of courses offered by the Ontario Police College. I do not know what sort of detail you would like me to go into.

Mr. MacQuarrie: On page 84 of the briefing material we had just one item mentioned under courses offered and that was recruit training. I wonder whether it is more comprehensive than that.

Hon. Mr. McMurtry: I am not sure I understand the question. Is Mr. Swanton here? We have the principal of the police college with us, Mr. William Swanton. He has greater knowledge of the details of some of these courses.

Mr. MacQuarrie: At the bottom of page 84 of our briefing material, the last sentence reads: "The Ontario Police College is operated by the commission in Aylmer. Courses offered include: recruit training." I just wondered what other courses there are.

Mr. Swanton: We have a complete range of courses. I can give you the titles of them if you wish.

Mr. MacQuarrie: That is fine.

Mr. Breithaupt: Perhaps we could be given a course syllabus? That would be more helpful.

Mr. Swanton: Apart from the probationary training program, which relates exclusively to recruits, we have an advanced training course for police constables who have spent some years in the field. This is a refresher course for them.

We have management programs called the junior command course and the intermediate command course. We are putting the senior command course into place at the end of November.

We conduct a criminal investigation course for police officers involved in the investigation field. There is a criminal identification course for fingerprint investigators.

There is a scenes-of-crime officer course being developed, which we will start for the first time this year.

Interjection: What is the purpose of it?

Mr. Swanton: It is for field officers who are not fingerprint experts, but who can be given enough information and training to go to the scene of a crime, look for clues and then pass them on to more experienced investigators.

Mr. MacQuarrie: Excuse me for one moment. Are any of these courses accepted by universities or community colleges for officers who might be pursuing a more formal education?

Mr. Swanton: They have nothing to do with the universities or the community college system—

Mr. MacQuarrie: I know that some of the universities—

Mr. Swanton: The deputy minister asked me whether I could get university credits for the courses I have outlined so far. There is only one course at the Ontario Police College that is afforded a credit standing with the University of Western Ontario. That is our methods of instructional techniques, a course the college put on to assist and train police officers who are in the field of teaching themselves.

12 noon

The fraud investigator course is a specialized course for investigators concerned with fraudulent activities. There is a forensic accounting course to go beyond the fraud course—a specialized course. There is a youth officer course devised for those police officers who

work out of the various municipal police forces, the Ontario police force and the regional forces with respect to juvenile crime and delinquency.

Mr. Breithaupt: Mr. Chairman, it is past 12 o'clock. I think a recitation of these courses could be more easily read. It is all interesting, but we have broken every agreement we have attempted to make.

I suggest that this vote carry; and that vote 1704 be put immediately, that we move on to the Ontario Provincial Police vote.

Mr. Chairman: Is that a motion?

Mr. Breithaupt: I have so moved.

Motion agreed to.

Vote 1703 agreed to.

On vote 1704, Ontario Provincial Police, management and support services program:

Mr. Chairman: If anyone wishes to speak pursuant to what Mr. Breithaupt said, they must be extremely brief. Does anyone wish to speak to 1704?

Mr. Bradley: On a point of order before that happens, we in the opposition feel that the agreement has been violated. We are not going to participate in the estimates for the rest of the day. We had an agreement that we were going to have 60 minutes for the last vote.

It is quite obvious that the Progressive Conservative members of this committee are once again involved in a coverup. They have asked a lot of questions over the last few days. There has been snickering going on back and forth.

You have allowed this situation to occur because of the very informal agreement we had. We did not nail down the number of minutes; maybe we should have. We appealed to the goodwill of the members of the committee and what happens? The Progressive Conservative members have done nothing but stall because they do not want questions asked of the Solicitor General on some touchy subjects.

Mr. Philip: On that, it is well known that both the NDP and the Liberal Party want to ask questions about Re-Mor. We have had nothing but coverups about the Re-Mor situation on this committee since the Conservatives got a majority. They have used this procedure. You have violated an agreement that an hour would be spent on this vote—

Mr. Chairman: Mr. Philip, you are out of order. I am sorry. I opened—

Mr. Philip: I have no alternative, Mr. Chairman, but to walk out on this committee then if this is the way the Conservatives are—

Mr. Gordon: We have a whole hour left, what are you talking about?

Mr. Philip: We do not. He ruled to call the vote—

Mr. Chairman: In fairness, not only the PC members but Mr. Breaugh took in excess of his full supplementary time and Mr. Elston took his full time. So the fault is not entirely on one side in exceeding the agreement this morning.

Now Mr. Minister, you wish to respond?

Hon. Mr. McMurtry: Yes, because no one has put any questions to me that I have been reluctant to answer. Since the opposition has injected the Re-Mor situation back into this process, which is fine by me, I would like to make a comment—and particularly to the official opposition—just to put a little perspective into this thing, knowing the efforts that we in the government have made to resolve this matter.

I want particularly to direct my remarks to the official opposition because it is quite evident to everyone that this whole unhappy situation is very much related to Astra Trust. I want to tell you that if the official opposition is really interested in assisting a resolution of this matter so far as the people who have lost money are concerned, then they might direct just a small fraction of their energies to their political colleagues in the federal government, who have totally obstructed and stonewalled any efforts we have made to get them to direct their attention to this matter.

Mr. Bradley: Same old stuff. Get your federal members of Parliament to look after that, we are provincial members.

Hon. Mr. McMurtry: The exercise of the member from St. Catharines with respect to this matter I think has been the ultimate in political hypocrisy.

Mr. Bradley: You are the one who has practised political hypocrisy.

Hon. Mr. McMurtry: If you are really interested in assisting these people, then you might direct a little attention and a little effort to this.

Mr. Bradley: Get your federal members off their rear ends.

Hon. Mr. McMurtry: You are more interested in cheap political grandstanding than you are in helping anyone.

Mr. Bradley: You are not interested in justice at all.

Mr. Chairman: Order. We are on vote 1704. May I have some discussion on 1704, item 1?

If there is no discussion, we will have the vote on item 1. Could you please speak up quickly because we are soon going to be out of our 10 hours.

Mr. Williams: Mr. Chairman, coming back to the fact that the force now has been relegated from the third largest to the fourth largest force in North America—I note they have been overtaken by the Quebec Provincial Police in numbers—is one led to conclude that we are just becoming more efficient and can do the same job with fewer people?

Mr. Chairman: Mr. Williams, are you on vote 1704?

Mr. Williams: Yes, I am looking at page 125.

Mr. Chairman: I would ask you to be brief because I believe there are other members who wish to speak to vote 1705.

Mr. Williams: I am, but you are not letting me get my questions in.

I was wondering whether it can be attributed to the fact that our force has become more efficient, being able to do the same job with fewer numbers. Or is it part of a constraint program that perhaps could be perceived as affecting the quality of the delivery of services?

Hon. Mr. McMurtry: We are reviewing our resources very carefully to determine for how much longer we can provide an adequate level of service with respect to resources that have been basically frozen as of 1972, so far as the overall complement is concerned. We realize that with the growth of regional forces, perhaps there have been some tradeoffs. For some months now we have been engaged in a careful assessment and review of our resources in the context of the increasing demand for OPP services.

12:10 p.m.

When I say the increasing demand, I am referring to a number of areas, of course. For example, obviously since 1972 the number of vehicles and miles driven on highways patrolled by the Ontario Provincial Police have increased very dramatically. Unfortunately, we as a society have faced steadily increasing crime rates

and the effect of all of this is, in my view, to stretch the OPP resources very much to the limit.

Part of the response of the OPP is to do whatever it can to increase productivity wherever possible, making great demands on the individual members. Our overtime bill has become a very significant fact; I think it was about \$10 million in the last fiscal year. So a number of officers have been called upon to work more overtime than perhaps is fair or reasonable, notwithstanding the fact they are compensated for it.

We hope we will be able to persuade our colleagues at the conclusion of this review that these resources will have to be expanded if we are going to be able to maintain a reasonably high level of service.

Mr. Williams: Is it possible that if the number of field personnel was increased, the \$10 million that has been directed towards overtime services would be reduced by bringing it within a normal contractual arrangement, rather than having them work on an overtime, and obviously more costly, basis?

Hon. Mr. McMurtry: I am not sure that I understand the full extent of the question.

Mr. Williams: You have indicated that over \$10 million had been expended to obtain overtime services. I take that to mean that many of the officers doing duty are doing double duty and working overtime in the field. As such, it is costing us a premium to buy those services, whereas they might be purchased at the prevailing rate if there were officers conducting their services during regular hours.

Hon. Mr. McMurtry: And translated into additional complement.

Mr. Williams: Yes.

Hon. Mr. McMurtry: Yes, it is my belief that certainly a good deal of the overtime would not be necessary if there were additional complement.

On the other hand, we have to face the fact there would always be a fair degree of overtime required because police work does not fit into any particular time frame. If a police officer is engaged in an investigation and his shift ends, he cannot simply postpone continuing the investigation to his next shift. So police work of necessity involves a very significant amount of overtime.

Perhaps Commissioner Graham or Deputy Commissioner Erskine could provide more

information. I don't know, Commissioner Graham, if you would like to comment on this overtime matter.

Mr. Graham: Mr. Chairman, we will always have an overtime problem, but should we have additional resources in the way of manpower our overtime bill would be considerably reduced from \$10 million.

Regarding the Quebec police force outnumbering the OPP, that came about during the FLQ crisis when they found it necessary to take on a considerable amount of extra manpower.

Our productivity remains good, but due to changes in the laws, such as wiretap laws where we have to have men around the clock on certain duties, and on account of the increased work load, population and so on, we do need more resources as the minister has indicated.

Mr. Williams: Just one last quick question; a submission has been made for a specific number of additional recruitments in the different fields—the investigator field, field activities, and so forth.

Mr. Graham: That's ongoing.

Mr. Williams: I presume it is. That is a further increase over last year's request for an additional complement. In that area it is a matter of financial constraint, I guess, more than anything.

Mr. Chairman: We have two more persons who have asked to speak, I presume on 1704, before moving on to 1705. Is that correct? There are about 13 minutes left to finish this.

First, Mr. Gordon—please be brief—and then Mr. Piché.

Mr. Gordon: Mr. Chairman, as the Solicitor General probably is aware, I do have an axe to grind when it comes to training.

We have talked about the Ontario Provincial Police and about local police forces. I am also concerned that we provide all these regulations, as one of my colleagues on the other side of the table mentioned a little while ago, for everything under the sun. But after someone has received his initial training as a recruit with the Ontario Provincial Police, what subsequent training is given over the years? What guidelines have you laid down and what is insisted upon?

Secondly, what are we doing in this province to make sure that our regional police forces and our municipal police forces—

I beg your pardon, you have a problem?

Mr. Hilton: Yes, sir. The problem is that what the regionals and others are doing is a matter for the OPC. It is not a matter of the OPP really taking over that.

Mr. Gordon: But you can allude to it. The Solicitor General can, I think. I am concerned because I really believe that our police officers are put under a lot of pressure today. They have to investigate a lot of crime. These people, whom we pay very well, are professionals and should be given the full training you would expect any professional to have who is involved in a job that has some very real dangers and needs. I think this is important for the public. Could I have a few comments on that?

Hon. Mr. McMurtry: Most police officers today go to the Ontario Police College. As far as I know it is not a statutory requirement, but someone should have the information here on the percentage of police officers hired who do go to the Ontario Police College. It is a very high percentage, over 90 per cent, I believe.

Mr. Hilton: I have just been advised by Mr. Swanton that 11 refresher courses a year are run and there are 32 officers in each course. It is hoped and expected that an officer, depending on the availability in his own force of resources to let him come back, will have a refresher exposure once every four years.

Mr. Gordon: I am really disturbed that there is so little regulation when it comes to the training of officers. We listened to a long harangue about police chases and so forth. We hear about all kinds of other regulations with regard to policing in Ontario. I think you have to have some very specific regulations because you owe it to the public. You can say it might cost the municipal taxpayer a little more.

Hon. Mr. McMurtry: Excuse me, the Deputy Solicitor General did not answer your question—I wonder if Mr. Raiké or someone can assist us—what percentage of police officers go through the Ontario Police College?

12:20 p.m.

I think perhaps one of the issues you are raising, Mr. Gordon, is whether we should have a statutory requirement that every police force have their recruits trained at the Ontario Police College. Personally I am of the view that that would be a good idea. Some of the smaller forces say they cannot afford it. Of course, some of them do not have the demands made upon them that are made on the larger forces. Do we have the answer to that question?

Mr. Gordon: When you consider how much municipal taxpayers are paying today for policing, I think they have a right to expect that the person who is protecting their rights and freedom is very well and highly trained. It should

not be left to the whim of any particular police force whether or not they are going to train a man.

If you put a man in uniform, the public automatically expects that person is quite capable and has been properly trained. I think the public, in this sense, is being misled. I would like to have a written reply on this matter because I do not think you are ready to give me a verbal response.

Hon. Mr. McMurtry: Yes, I am. I am well aware of the fact that virtually every police force of any size at all does require its recruits to go through the police college. It would appear that our approach of encouraging rather than legislating this for every police department has proved to be fairly successful.

I was just told a moment ago that every force now sends its recruits to the Ontario Police College; there are no forces that do not. I thought there might have been a handful of very small forces that did not.

Mr. Chairman: Mr. Gordon, before you carry on further, in fairness to other members, I should rule that Mr. Piché, who spoke at the very beginning of these estimates—

Mr. Gordon: For a very long period of time, Mr. Chairman. I am not finished.

Mr. Chairman: Perhaps you are, Mr. Gordon. Mr. Piché, who spoke 10 hours ago in the estimates, wanted to speak to one major item in expenditure of money in vote 1705. In fairness to him, should we not give him some opportunity before the time runs out?

Mr. Gordon: Mr. Chairman, I think you have missed the whole point of my remarks. It is fine to say we are sending our police recruits to the police college. I am not satisfied with that answer. I want to know if we can expect that recruit to be back there a year from now, two years from now, three years from now or even five years from now? We know what a preliminary course is. I am not that naive. You are not that naive.

Hon. Mr. McMurtry: I suggest you visit the Ontario Police College, Mr. Gordon. You may not know what is involved, because it is a very comprehensive and good course. I think you might avail yourself of that opportunity.

Mr. Chairman: Mr. Gordon, could I suggest that you request the minister and his staff to answer in writing? May I go on to Mr. Piché?

Mr. Piché: It is obvious now that the questions I have, and—

Hon. Mr. McMurtry: I would like to say for the record that we would be happy to provide an opportunity for any colleague to pursue these questions with the people who are most knowledgeable on the subject. I think the question Mr. Gordon raises is one of fundamental importance, given the cost of policing in the province today.

Mr. Piché: Can I have the floor now? I have three or four minutes.

As I was saying, it is obvious that the clock has taken over on the questions I had prepared to be addressed to the Ontario Provincial Police. Some very serious situations exist right now, especially in my region, but to go into any of the questions now would be unfair to me, to the people I represent and also to the Ontario Provincial Police.

Somewhere along the line, they have to be addressed. That is why I am not prepared to vote on this, because the questions I have cannot be answered; the clock has taken over.

I would just like to speak quickly to a couple of items that are very disturbing to me. One is something I said I would work on throughout the campaign. That is better protection, which at this time is not adequate in the region I represent. Last week, one shift the OPP are responsible for in Smooth Rock Falls was taken off. The people now have no protection whatsoever. The officer is in bed and if you want him, you have to get him out of bed, which is not acceptable.

As I said to you, Mr. Minister, this was done a year ago without consultation or discussion or any dialogue with the town council of Smooth Rock Falls or with me, as a representative of these people; we read it in the paper.

In fact, I got a call from the Timmins Daily Press—a Thomson paper, by the way—about this situation. I said: "That cannot be happening. I have been talking about that." Only a month and a half later, with the water still on my back after being elected, here all of the sudden is the clipping, "Manpower Shortage Blamed For OPP Midnight Shift Cutoff." Now, none at all.

One item I will not accept any longer concerns the resources. Maybe they do not have the resources, but I have to question whether the resources they have right now are being utilized properly. I have to question that, because we have a seven-man police force in Smooth Rock Falls. They have given service before and all of a sudden we are going to take a shift out. I do not understand that.

We know there are 21 shifts in a week. If you divide that you know there could be enough men to give the service to that community.

One of the questions I will be addressing very shortly—I want to talk to the Solicitor General after this—is why has Smooth Rock Falls been cut off? In Timmins they have over 50 men, including administration, plus a 75-man police force from the city of Timmins. Why do they have so many men there and yet the community of Smooth Rock Falls has been cut off with no police protection at all?

A year ago I brought an idea to the Ontario Provincial Police. I said that in Kapuskasing we have two offices that are open 24 hours a day, two dispatch offices with a Canadian Police Information Centre—you name it, we have it; one mile apart. I said, “Why don’t we combine and save some money and put the men on the road?”

What did I get out of that? They closed the OPP office. I suggested something and this is the end result. If we have two offices open, let’s close one. They closed one and sent it to Hearst. Now apparently they are going to send it to South Porcupine.

I know the area. I have been a police commissioner for 10 years. I know what is required there. But when the OPP want to do something, that’s it; we’re cut off; “We don’t talk to you; we don’t talk to anyone.”

Those are some of the questions I addressed that Mr. Hilton was aware of when we met with him last year to discuss this matter. Twelve mayors and councillors from municipalities came up and said, “That cannot continue.” So we started to work on it and as of last week they cut off the service at Smooth Rock Falls and no one knew about it. We woke up one morning and I got a call from a newspaper to say the OPP had been cut off; we have no service between 2 a.m. and 8 a.m.; no policemen.

But the OPP district 15 inspector, Jack Irwin, said, “If you need protection, we’ll go to Cochrane and Hearst,” which are about 40 miles away. Now, when you need protection, you need it now; you don’t need to go 40 miles or wait three quarters of an hour for that kind of protection. This is what is serious.

Also we are running short in Kapuskasing, because they have taken some men out and the same thing will apply to Cochrane.

Mr. Chairman: Can you—

Mr. Piché: This is not in the form of a question. I don’t want any answer on this

because all the questions I had here would be unfair. I want some answers; I won’t get them today.

Mr. Chairman: Correct, Mr. Piché; we are out of time. The 10 hours are up. Could you address your various questions to the minister in writing?

Mr. Piché: Not in writing. What I would like is for the minister to arrange a meeting with the proper people here: the commissioner, who would be very important; the deputy, who is aware of the situation. In fact, the deputy came to a meeting of our municipal organization; he spoke well.

The thing is we are short of services.

12:30 p.m.

Mr. Chairman: Mr. Piché, that is really out of the purview of these estimates.

Mr. Piché: It comes under—

Mr. Chairman: Correct, but beyond the 10 hour limit.

Hon. Mr. McMurtry: We are prepared to arrange any such meetings.

Mr. Piché: Thank you very much; that was all I wanted to know.

Mr. Chairman: We must carry on with the vote now. I assume, Mr. Piché, that you will stay and not walk out because your time has been cut off.

Vote 1704 agreed to.

Vote 1705 agreed to.

Mr. Chairman: Shall I report the estimates then to the House?

Mr. Piché: They are to be reported then, Mr. Chairman, but you should also add some of the comments that we made, that we did not have a chance to discuss votes 1704 and 1705, we are doing something blind at this time. It has happened before but it is a new ball game. Some of us are new and maybe we want to change what happened before.

Mr. Chairman: I suggest you speak to Mr. Williams about the custom of running out of time on estimates. I understand it happens quite often.

Mr. Piché: Make sure votes four and five become one and two next year so we will have lots of time to discuss them.

Mr. Chairman: Thank you, Mr. Minister, that completes the estimates of the Ministry of the Solicitor General.

I believe we should adjourn for the day because the Justice policy estimates commence tomorrow following routine proceedings. We passed our budget last time so we have no matters to deal with between now and then.

The committee adjourned at 12:32 p.m.

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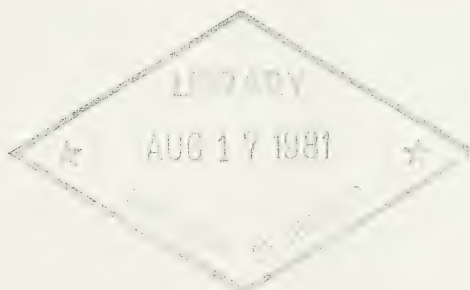
Ontario, LEGISLATURE

No. J-6

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Justice Policy Field



First Session, Thirty-Second Parliament
Friday, June 12, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, June 12, 1981

The committee met at 11:30 a.m. in room No. 151.

ESTIMATES, JUSTICE POLICY

On vote 1301, Justice policy program; item 1, Justice policy:

Mr. Chairman: We will now convene the meeting, a quorum being present. We are commencing the estimates of the Justice policy field. Honourable Mr. Walker is here. We have three hours for these policy field estimates.

In the absence of Mr. Breithaupt, who normally, I understand, does these things, and in view of past circumstances, would it be in order—and I am looking at Mr. Philip—to attempt to come to some understanding at the beginning as to allocations of time among minister, critics and other members?

Mr. Philip: Could we have 30 minutes each for an opening statement by the minister and replies by the critics followed by opening it up to anyone else on a rotation basis?

Mr. Mitchell: Mr. Chairman, I stand to be corrected but I am led to believe that the opening statement is a reasonably lengthy one.

To answer some of the questions, I did some research into some of the questions raised by your party the last time around. My understanding is that the minister will try to answer a lot of the matters today that were requested at the time you last dealt with Justice policy.

Mr. Philip: If the minister wants 40 minutes, I am satisfied as long as each of the other opposition critics has 40 minutes. I am just trying to see that each of the back-benchers gets as much of the time as possible.

Mr. Andrewes: That is agreeable. The time will be according to what the minister says.

Mr. Chairman: Yes, I would trust there will be some time left over for members other than minister and critics at the end. Is that fair enough? Does everybody understand there will be a bit of time left over for the ordinary members of the committee?

Mr. Philip: That is what I am trying to say.

Mr. Chairman: Fine. Mr. Minister.

Hon. Mr. Walker: Mr. Chairman, a year ago when I presented the estimates of the Provincial

Secretary for Justice I stressed three basic roles of the secretariat: policy development, research, and co-ordination. Today I would like to focus on the significant progress made by the secretariat during the past year in carrying out these roles, and to identify our directions for 1981-82.

I have beside me the Deputy Provincial Secretary for Justice, Mr. Don Sinclair. In a few moments we will introduce other members of our panel who are available for any comments you might wish to direct to them.

Policy development and analysis is the primary function of the secretariat. We must anticipate how the policies of any one part of the justice system might affect other parts. More important, we are responsible for assessing the effects of these policies on public safety and individual rights, as well as the social and economic costs of alternative courses of action.

The cabinet committee on justice meets regularly to consider policy matters brought forward by the ministries, the secretariat and other policy fields. It concentrates on the broad implications of policy submissions and, in particular, areas of overlap among ministries in the justice field or other fields.

To maintain the delicate balance between public safety, individual rights and total financial and social costs, it is essential that we analyse the justice field as a whole before moving in new directions. We must consider a full range of policy options, and attempt to identify the most suitable approach for dealing with issues that further the public interest.

A second major function, and one on which we are placing increasing priority, is the secretariat's role as a research group. The justice system has some impact, directly or indirectly and often dramatically, on the lives of all our citizens. Consequently, it is necessary to improve our ability to answer questions about the nature and extent of crime. We need to know how crime is affecting victims, how the system is responding and what the costs are.

Sometimes, unfortunately, basic statistics are distorted, misinterpreted or inadequate, promoting public fears about criminal activities which lead to inappropriate reactions at great cost and danger to society. It is therefore crucial

that we not only produce accurate and timely statistics but that we communicate their meaning in ways that contribute to crime prevention or more effective practices in dealing with victims, witnesses and offenders.

Since 1977 the Provincial Secretariat for Justice, with the co-operation of other ministries in the policy field, has made considerable headway in providing the public with a comprehensive compilation of justice statistics. In December 1980 the third edition of Justice Statistics Ontario was published. Copies have been distributed to you with your briefing material. You will note that this document not only provides crime, court and corrections data, and data from the Ministry of Consumer and Commercial Relations, but it also provides population data and comparisons with other jurisdictions.

We will be producing another document in the near future which extracts information from the statistical compilation and which presents the most current evidence with regard to some commonly held perceptions about crime and the Ontario criminal justice system. This forthcoming document, which is now being printed, is designed to appeal to a very wide public audience. We hope it will help to dispel many commonly held misconceptions. I will distribute copies of the document to you as soon as it is available.

In the meantime we have prepared a set of transparencies which highlight key aspects of the document. After reviewing these facts, I hope you will agree that this type of analysis is necessary to keep the public and the policy makers well informed about the current status of justice.

The first question I pose to you is, is crime in Ontario rising by leaps and bounds? There have been year-to-year fluctuations over the last decade. The increases cannot be considered indicative of uncontrolled upward trends. The increases in the early 1970s moderated in the mid-1970s. After 1977 the trend has been upward. Between 1973 and 1979 the rate of crime per 100,000 population grew by an average of some four per cent a year or 25 per cent for that six-year period.

The second question is, is Ontario's crime rate the highest in the country?

11:40 a.m.

Mr. Renwick: Is it convenient to interject or would you rather go through the whole thing?

Hon. Mr. Walker: No, I would feel comfortable if you would.

Mr. Renwick: What is the basis of that statistic about crime? What is included in something called crime?

Hon. Mr. Walker: Are we back to the first one?

Mr. Renwick: The first one. You will be using the term "crime" as an omnibus definition and I would like to have some sense of the content of what is included. Is it the Criminal Code only?

Mr. Sinclair: It includes all offences against the Criminal Code; all offences against other federal statutes such as the Narcotic Control Act, the Customs Act and the Immigration Act, and all offences against provincial statutes and municipal bylaws.

Mr. Renwick: I am not asking you to break it down for me now.

Mr. Sinclair: We shall on the slides.

Mr. Renwick: Oh, you will later on. Thank you.

Hon. Mr. Walker: Question two: Is Ontario's crime rate the highest in the country? For many years, Ontario's crime rates, while higher than those of the eastern provinces, have been lower than those in the west. This characteristic rise in crime rates from east to west holds true both for property and violent offences. Ontario rates have tended to be just over the national rate.

Question three: Are most reported offences in Ontario of a violent nature? Quite the opposite is true. Violent offences, which include homicide, attempted murder, sexual offences, assaults and robbery, constitute a small proportion of total crime. The proportion of total crime accounted for by violent offences in 1979 was 5.8 per cent and even this proportion has shown some evidence of decreasing over the last decade. As a comparison, the proportion in 1973 was 6.5 per cent, and over the past five years it has averaged 6.1 per cent.

Question four: Is there more crime in larger cities of the province? This perception is correct when the actual number of offences is used. However, a more meaningful measure is the rate of crime per 100,000 population since this establishes a common denominator for comparisons. If the rate of total crime per 100,000 population is considered, the perception is not generally true.

For example, in 1979 the rate of total crime—and that is excluding traffic offences—in towns and villages was 14,209. This is higher than either of the other two population groupings. The rates for violent crime tend to be greater in the more populated areas, while the

opposite is true for property offences. Other Criminal Code and municipal bylaw offence rates also tend to be greater in the less-populated areas.

Mr. Mitchell: Excuse me, just hold that for a moment. The country boys are rougher than those in the city.

Mr. Renwick: That is because there are very few New Democratic Party members in the country.

Mr. Chairman: Did you notice that prostitution, gaming and betting were very high in the large cities? Is that because there is a preponderance of NDP members there?

Mr. Renwick: You are supposed to be an impartial chairman.

Mr. Chairman: I am a small-town boy.

Hon. Mr. Walker: Question five: Is Ontario's homicide rate cause for real alarm? There has been little change in the number of homicides in Ontario since 1976. The rate of homicides for 1979 was 2.1 per 100,000 population, the second lowest behind the Atlantic region. Since 1972 Ontario's homicide rate has been consistently lower than the national average and has been the lowest or second lowest when compared to other parts of the country.

Question six: Are there fewer and fewer crimes being solved these days? The overall clearance rate, whether cleared by charge or cleared otherwise, has remained relatively constant over the past few years. In 1977 the rate was 52.4 per cent and in 1979 it moved slightly to 52.6 per cent. There is, nevertheless, a great deal of variation among specific crime categories.

Mr. Renwick: Could I interrupt? What do you mean by clearance? Is that the final disposition of the case? Take any given case, presumably a person could be arrested but not charged. In other words, the police could have a record of the incident.

Hon. Mr. Walker: Mr. Sinclair is nodding his head and I am appealing to his authority. He has become a Canadian authority now and is basically heading up the national statistical compilation operation. When he speaks, he speaks with more than casual authority.

Mr. Sinclair: I would love to respond to that, Mr. Renwick, by saying I will now turn to the ultimate authority, Leonard Crispino, to see whether he has the technical definition clearer than I have.

Mr. Renwick: My specific interest is, does it mean only where charges are laid and there has been an ultimate disposition by way of trial or guilty plea, or is it charges laid, many of which are withdrawn and many of which have a failure to convict or an acquittal?

Mr. Crispino: Let me just refer you to this publication in which precisely those kinds of questions are defined.

Mr. Renwick: What is the name of the publication?

Mr. Crispino: The name of the publication is Justice Statistics Ontario. It is for 1980. I am quoting from page four:

"Offences cleared by charge are those for which an information has been laid against at least one person, charging him or her with that offence. Offences cleared otherwise," which is the second category of offences cleared, "are those which, after investigation, police determine do not require further investigation, but which, for a number of reasons (e.g., person confesses to a crime and later dies;" — that is one possibility — "sufficient evidence is available but complainant refuses to prosecute)" — that would be a further example — "do not lead to charges being laid."

Those two major categories comprise the overall broad category of cleared offences.

Mr. Sinclair: Clearance rates are based on two factors, both of which I plan to mention. One is based on the percentage of actual offences which are cleared either by the case going to court, by being charged or by what the police call in their category "otherwise." That could encompass the kind of eventuality Mr. Crispino pointed out where it is decided the person involved does not wish to prosecute or somebody dies and so forth. That is an "otherwise" clearance. The normal clearance is where the case has gone to trial and is finished with by the police.

As opposed to charges that are cleared are charges that are unfounded. Here we are talking about how many actual cases have been satisfactorily concluded where a charge has been laid.

Mr. Renwick: Then there is the second category where no charges have been laid.

Mr. Sinclair: That's right.

Mr. Renwick: So the fundamental basis of all these statistics is police records rather than justice records.

Mr. Crispino: That's right. I should add that

these various categories are uniform across Canada. They are standard definitions created by the uniform crime reporting system, which is comparable across Canada and the United States for all police forces.

11:50 a.m.

Mr. Renwick: I always have trouble deciding whether I am hearing statistics that are meaningful or not. That is my problem with them. Assuming a file is opened every time the police are involved in a matter, I do not understand whether we are saying that a clearance means they have closed the file one way or another. Would that be an accurate way of expressing it?

Mr. Crispino: Yes, it may be cleared, but I guess we are further defining that. How is it being cleared? We are defining whether it is by a charge or by some other method.

Mr. Renwick: Right, but it does not really seem to answer the question that was posed.

Mr. Sinclair: Could we look at this the other way around? If the total clearance rate is 60 per cent, it means 40 per cent of all crime that is known to the police, and has been found as being a crime, has not been solved.

Mr. Philip: You mean a lot more than that has not been solved. You are clearing matters that have not really been solved. If I understand what was said, your clearance does not necessarily mean it has been solved; it simply means you have closed the file on it. Is that not the case?

Mr. Crispino: It means that either a charge has been laid or the matter has been finished. For one or more reasons—for example, death of the person or persons involved, or witnesses no longer wish to testify—that matter would be closed. In that sense, the crime has not been solved. It is an administrative closing, in that particular case.

Mr. Sinclair: We can split that down further, but we do not have it here. I see the slant of your question now, sir. We could split that down into charges that are cleared and charges cleared otherwise, to use their terminology.

Hon. Mr. Walker: The clearance rate ranges from a low of about 30 per cent for property offences to a high of about 77 per cent for violent offences, 92 per cent for federal statutes, and 98 per cent for provincial statutes. Generally speaking, the clearance rates for these crime categories have shown little variation from year to year.

To continue with the questions, question

seven is: Do people living in larger cities regard crime as the most important problem? From a recent 1979 Canada-wide survey of community concerns done by Canada Mortgage and Housing Corporation, Ontario residents rank crime reduction after inflation and unemployment in terms of priority initiatives.

In other surveys where respondents are asked open-ended questions about major concerns, people rarely mention crime as a concern of high priority. The study also pointed out that of the 23 cities included in the survey, the nine Ontario cities ranked lower in general fear of crime.

Mr. Philip: Has there been any breakdown for districts? Are there certain neighbourhoods or certain ethnic groups, for example, in which crime is seen as less of a threat than in others?

Hon. Mr. Walker: Do you mean from their perception point of view?

Mr. Philip: Yes.

Mr. Sinclair: We do not have any slides depicting that, but I could get results of surveys in that direction for you, if you are interested. It is not from all across the country; it is only certain areas that have been studied, and certain groups.

Mr. Philip: Thank you.

Hon. Mr. Walker: Question eight: Has female involvement in crime greatly increased in recent years? Police statistics indicate the proportion of total persons charged who are women has changed very little over recent years. Over the last four years it has remained at about 12 per cent. Their offences tend to be of a less serious and nonviolent nature. Some caution should be exercised in interpretation of these findings, as the number of people charged may not indicate the actual amount of crime committed. Attitudes in society may contribute to differences in the arrest, charge and incarceration rates of women and those of men.

Question nine: Are crime statistics an accurate measure of the amount of crime committed? Crime statistics represent only those crimes that have been detected by or reported to the police. Much of the actual crime, however, is not reported or detected. Although the evidence is not precise, estimates suggest the reported crime can represent from 20 cent to 60 per cent of actual crime, with a great deal of variation among specific crimes. For example, studies conducted in Ontario and British Columbia indicate only about 60 per cent of all

break-and-enters are reported to the police. These reported rates can be affected by a host of factors.

Question 10: Are inmates, young and old, alike? The major portion of people in jail, or in the Ontario correctional centres, is of those less than 25 years of age. The 19-to-24 age group is one of the most crime-prone groups. If one looks at the age groups in Ontario and its population, it can be seen that the number of young persons in jail, or other correctional institutions, is over-represented. Women inmates, who represent only a small proportion of the total inmate population, tend to be older than the men.

Question 11: How much involvement does an ordinary citizen have in Ontario correctional programs for offenders? During the 1979-80 fiscal year, about 3,800 volunteers were involved in various programs of the Ministry of Correctional Services. Two thirds provided volunteer work in institutions, while one third assisted in probation and parole services. During March 1980 some 3,200 cases, or almost 13 per cent of the total probation and parole case load, was being supervised by volunteers, and during that year there was an 18 per cent increase in the number of volunteers over the previous year.

Question 12: Can inmates in provincial institutions be trusted on temporary leave? The number of inmates of Ontario correctional institutions out on a temporary pass, either for humanitarian purposes or to pursue education or employment, has increased some 30 per cent between 1976 and 1980. During this time the program's success rate has consistently been over 96 per cent. It should be noted that even those individuals considered to have unsuccessfully completed a temporary absence pass do not, as a general rule, commit serious infractions.

Question 13: Do most people repeat within a year of completing their sentence? The latest information indicates that of some 54,200 people who completed their sentence during 1978, about two fifths, or more than 42 per cent, were again inmates on probation or in other programs of Ontario's Ministry of Correctional Services by the end of 1979. It was found that persons with a prior record had a greater tendency to repeat, with a rate almost twice that of persons with no record.

Question 14: What does Ontario spend in justice services? In the fiscal year 1977-78 Ontario spent \$100 per capita. This compares

with \$106 in Quebec, \$104 in Alberta and \$118 for British Columbia. Ontario's expenditure is slightly below the national average of \$101.

Question 15: Is protection of the public and property carried out entirely by the official police forces? In Ontario the number of private security employees has grown from 1.75 personnel per 1,000 population in 1969, to a figure of 3.3 per 1,000 population in 1978. The comparable rates for police personnel over the same roughly 10-year period are 2.04 to 2.99 per 1,000. It has increased from just about two to just about three, respectively.

"Private security" refers to licensed and unlicensed security guards and investigators, employed by security companies or private employers. "Police" are the number of Ontario Provincial Police and municipal police officers and civilian employees.

Licensed private security personnel increased 110 per cent in that 10-year period. The OPP registration branch estimates an equal or a greater number of unlicensed in-house security personnel.

12 noon

Mr. Philip: Is the licensing bill on that whole area coming in again, or in what form or where is it at the moment, do you know?

Hon. Mr. Walker: I hope it is. I do not think it is very far away.

Mr. Philip: Should we expect it to be introduced in the fall session?

Hon. Mr. Walker: You certainly will not see it in this particular session.

Mr. Philip: I recognize that we will not see anything else in this session but should we expect it in the fall?

Hon. Mr. Walker: Yes.

Mr. Philip: Is it the intention of the minister that the bill is to go to committee outside the House for consideration?

Hon. Mr. Walker: He has not shared that with me. I guess we would really have to inquire of him. I think he might be guided by some comments from the House in that regard if there is some feel for it.

Mr. Philip: There were some questions in the House today that dealt with some of the problems that faced all groups that are probably not licensed.

Hon. Mr. Walker: To continue: The preparation of this material has been possible because of the priority we have placed on improving the ability of the system to gather necessary data

and organize it in useful ways. We are by no means satisfied, however, with the availability or reliability of certain types of statistics that we know we must obtain. This is why the work to develop common terminology, completed during the last year, has been so important.

Traditionally, different levels of the justice system have used different words or phrases to define the same procedure or incident. The members of the committee from last year will remember that we discussed this very point. At that time Mr. Crispino's work had just been completed; it is now nationwide. The situation I just mentioned—not his work—has complicated any effort to trace the flow of people through the system, to measure work load or to assess adequately the value of specific responses to crime.

With the assistance of federal funding, a document relating to justice terminology has been produced by this secretariat and is now being utilized in an effort to arrive at a common understanding of terms. Further refinements will have to be made on an ongoing basis as changes are introduced or new issues arise.

Last year I told you about the leadership shown by Ontario in federal-provincial activities to improve the state of national justice statistics. In October 1979, federal and provincial ministers responsible for justice met to discuss the problems. Growing from their efforts, a national project was established and chaired by Don Sinclair, my deputy provincial secretary. It agreed that the most appropriate solution would be the creation of a satellite of Statistics Canada to produce national justice statistics.

Deputy ministers responsible for justice will have a direct voice in establishing the policies, priorities and programs of the centre, which will be opened in Ottawa this September. The creation of this centre is an enormous step forward in developing a system of statistical reporting that will truly reflect the state and extent of crime and justice. Furthermore, we will be better able to draw upon good statistics for informed discussion on cost sharing and to co-ordinate action among jurisdictions. More important, we will be in a position to cut down on duplicated efforts and thereby reduce public costs while improving effectiveness.

The secretariat will continue to seek ways of improving the ability of policy makers to assess how appropriate our responses are, particularly in view of the increasingly complex social problems and financial constraints. We will also

continue to seek ways of bringing information to the community and involving citizens in preventive measures.

This brings me back to some of the initiatives of the secretariat in responding to problems faced by victims of crime. I have been a strong advocate of victim rights for many years. In October 1979 I raised the need for recognition of certain rights for victims at a federal-provincial conference of justice ministers. Since then I have made several specific recommendations on victim rights, some of which I believe should be entrenched in the Criminal Code.

While physical pain and suffering are among the most severe consequences of crime, all victims endure some kind of suffering, be it the trauma of finding your house burglarized, the financial loss of theft or vandalism, or even the mental strain of being a witness in a trial process. Frankly I do not believe we can be satisfied that justice has been done until we are satisfied that the system has done everything possible to deliver justice to that victim of crime. I am pushing for victim rights to be an agenda item at the next federal-provincial justice conference this September.

For its part, the Ontario cabinet committee for justice established an interministerial committee to study victim rights and victim services. The committee has not only considered the direct benefits to victims and witnesses but has also noted that the criminal justice system can derive many secondary benefits from such victim-witness projects. These include increased payment of restitution by offenders to victims, improved victim support for police investigations, improved reporting of crimes, improved citizen-police relations, and increased conviction rates because of improved witness involvement and attendance. These are all goals we would like to achieve.

I am pleased to announce today that this policy committee has reached agreement on the creation of five pilot projects to be located in Toronto, Kitchener, Windsor, Ottawa and Cochrane-Timmins. Funding mechanisms are now being examined. The objective will be to fund these projects in a way that shifts the financial burden of the costs of the services away from the taxpayers to offenders themselves.

Once these projects are established, three types of services will be available: first, police provision of an at-the-time-of-crime trauma service to victims; second, court-related services for witnesses; and third, distribution of

two informational pamphlets, one for victims distributed by police and the other for witnesses distributed at court.

In addition, the secretariat has made arrangements with the University of Ottawa for the conduct of a research project on needs and services for crime victims in the Ottawa area. This project will be completed by fall 1981 and will give us more detailed information about a sample of victims.

A specific area related to our concern about victims is the impact of remands on individuals and on the justice system as a whole. A policy field committee on remands in custody has addressed this overall issue and has brought forward for further consideration several specific, practical suggestions to make that system more efficient. These will be carefully studied by the field during the next few months.

Last year I raised with this committee our concerns about domestic violence, its impact upon family members and the kind of policy responses that might be needed. As a starting point the secretariat commissioned an overview of the current thinking and experiences with crisis intervention in occurrences of domestic violence. The overview was prepared for us by the Com-Sult group of Ottawa. Studies prepared by other groups have also been reviewed by the staff at the secretariat.

Perhaps I could now review what we do know about domestic violence and what initiatives might be appropriate to deal more effectively with this difficult area of criminal justice. We have no exact statistics on the incidence of violence in the family. It is difficult to document occurrences, because our society finds it easier to talk about crimes on the street than to talk about equally disturbing crimes that happen behind closed doors. But all indications are that domestic violence is a widespread occurrence.

I am not talking about family squabbles; I am talking about domestic behaviour that, in any other setting, would be considered a serious criminal offence. This violence occurs in poor, middle-income and rich families, in all ethnic groups, among people of all ages, and in both cities and rural communities. The Com-Sult report indicates the number of cases of domestic disturbance and violence coming to the attention of the police is probably just the tip of the iceberg.

Many reasons have been given to account for domestic violence, including cultural, social, economic and psychological ones. Studies suggest that children brought up by warring parents

tend to be violent themselves when they grow up and try to establish their own relationships. Whatever the reasons, we can say for certain that domestic violence produces victims, and tears families apart from within.

Should we treat this as a social issue or as a problem for courts and the law? As the law now stands, a victim, who is usually a woman, can choose from a series of legal options to protect herself and her children.

First, she can lay charges of common assault. However, police are often reluctant to bring forward charges unless there is independent corroborative evidence. It is hard to find willing witnesses, and often the only witnesses available are their children.

Second, the victim can apply for a peace bond to require the husband or common law partner to keep the peace. Such a bond is difficult to enforce and does not necessarily remove the abuser from the situation unless the couple has separated. Thus, the potential for another round of conflict is ever-present.

12:10 p.m.

A third option is to lay a charge of disturbing the peace for conduct such as threatening or fighting. Fourth, a wife could seek an injunction prohibiting the husband from entering the matrimonial home and from molesting or interfering with her. Of course an abused wife could petition for divorce on the grounds of physical or mental cruelty, but that can take a long time. Even if there is a divorce, there are many cases where assault continues afterwards.

I think all of us agree that either the law itself or the way the law is enforced could be improved to provide better protection for the victims of domestic violence. Basically the police officer faces the choice of either mediating the dispute to restore the peace or arresting one of the antagonists to enforce the law. That seems simple enough but it is not; it leaves the individual police officer with a great deal of discretion. How he exercises that discretion depends on many factors, ranging from his training in handling domestic problems, to guidelines issued by his own police force, to his own personal views.

What guidelines should a government issue to the police on handling of domestic disputes is a real question. As the minister responsible for justice policy in Ontario, I begin from two basic realizations. One is the importance of family and of personal privacy. I am uncomfortable with the concept of government and police trespassing into the sanctuary of anyone's home

unless there is persuasive evidence justifying such an intrusion. The other realization is that we as a government, as a society, have a responsibility to protect the interests of victims who suffer abuse. Victimization is an extended concept. Obviously a battered woman is a victim, but so are her children for they are invariably the witnesses to domestic violence and among its most vulnerable sufferers.

The first need is to ensure that police officers are trained in crisis intervention so that they are better equipped to make on-the-spot decisions about alternative solutions. Encouraging beginnings have been made on this solution. The Ontario Police College, for example, initiated in February 1980 a three-day course on domestic crisis intervention for all recruits. The course deals with safety procedures to reduce police injuries and protect the victim, defusing techniques, interviewing techniques, mediation referral and cultural issues. In addition, the Metro Toronto Police College offers a three-week course for new recruits as well as experienced officers. This course includes self-defence techniques as well as crisis intervention training and knowledge of community resources.

The purpose of crisis intervention training for police officers is not to analyse the problem that precipitated the violence, nor is it to save the marriage. Rather its purpose is to stop the violence, protect the victim and enforce the law. Other community agents have, as part of their mandate, the job of dealing with economic or social situations that precipitate domestic violence.

A second need we are addressing is to ensure that our police forces, particularly in urban communities, have in place social services resources to provide mediation and counselling. Let me stress that we do not accept that police officers should be social workers; they are police officers and law enforcers in that order. When he steps into a domestic dispute, the police officer's Good Samaritan role should be essentially restricted to cooling out the antagonists, advising them of their legal rights and recommending appropriate mediation and counselling services to them.

One of the better police crisis intervention programs was launched in London, Ontario, in 1972. The program involves family consultants working with the police as an operational part of the London Police Department. The family consultants include psychologists and nurses, sociologists, social workers and clergy. The family consultants assist officers by providing

immediate assessment and intervention in crisis situations. They arrange referrals of the victim and her abuser to appropriate community services.

As a result of the assistance of the family consultants, uniformed officers in London now spend less time on domestic disturbance cases. They regard family consultants as a beneficial adjunct to the police force itself. Local social service agencies are responding quickly to referrals and have a high opinion of the system. Other cities—Hamilton, Ottawa, Vancouver—are experimenting with different variations.

We would like to see similar programs in other communities. Crisis intervention is an integral part of police work and is a community responsibility. In fact, studies conclude that crisis intervention programs managed and controlled directly by the police, with local social agencies involved in the planning, development and implementation, are the most likely to succeed.

Mr. Philip: Would you repeat that last bit please? You said "the most likely to succeed." I am wondering what you are referring to.

Hon. Mr. Walker: The studies concluded that the crisis intervention programs managed and controlled directly by the police, with local social agencies involved in the planning, development and implementation, are the most likely to succeed.

Mr. Sinclair: Where the police manage and control the relationship, it seems to have been more successful than where the agency is separate from and is just a referral. If a social worker, for example, is seconded by an agency to the police to deal with all of these, that tends to be more successful than just a referral with the police out of the picture.

Hon. Mr. Walker: These two initiatives, the training of more police officers in crisis intervention and the development of community resources for counselling and mediation, can go a long way towards dealing more effectively with domestic disputes.

However, we should begin to consider unifying present crisis services, such as rape crisis centres, shelters, suicide prevention centres, juvenile crisis centres and so on, into one local community crisis centre. As we have seen in London at the London Family Counselling Service, the calls covered many family problems, not only domestic violence. They all had one factor in common: the need for somebody to counsel immediately and possibly to refer the

family to a social service agency. The cost of running such a unified crisis centre could be offset by savings in police time, hospital services, court time, and welfare services that might be avoided by a timely intervention in domestic and other crises.

This still leaves, however, the issue of how police should respond when enforcement of the law is warranted because violence has already claimed a victim. I think it important that public policy stand clearly and firmly behind the police, when officers trained in crisis intervention conclude that enforcement of the law is the only option to protect the rights and safety of a domestic violence victim. Frankly I think it is time we all accepted that violent spouses or live-in lovers should be prosecuted in the same manner as if the assault had occurred between strangers.

Our basic emphasis is protection of the victim. Saving a violent marriage is not the purpose of the criminal law. The sanctity of the home should not shield those of vicious intent from feeling the full consequences of the law. Society should not condone violence in certain places and not in others. It should not condone violence just because a marriage or common law bond exists between offender and victim. By bringing family violence out of the home and into the courts, judges can use their powers either to punish those who perpetrate vicious crimes or to direct the adversaries to community counselling and mediation services as a condition of sentencing.

The Justice policy secretariat is now reviewing the difficulties that victims face in utilizing the protection of the law. Our ambition is to find better ways of ensuring that all victims of crime receive stronger support from the justice field and social services in the community.

The Provincial Secretariat for Justice has given particular emphasis over the past few years to improving the system's response to victims of sexual assault. We have made special progress in involving more than the justice system, having obtained the co-operation of the Ministry of Health in the production of the Ontario standardized sexual assault kit. Special assistance in its design has been provided by representatives of the Ontario Medical Association, the Centre for Forensic Sciences, the Committee Against Rape and Sexual Assault—in Niagara Falls—and of course the Attorney General's office and the OPP.

The kit has now been distributed to all public hospitals throughout the province. We have one

here to show you in a moment. It provides hospital staff with detailed instructions and all the materials necessary to collect whatever may be of potential use for forensic evidence. The kit specifies that necessary procedures for collecting evidence when a victim seeks medical attention, and its proper use by medical personnel, will assist in the investigation and prosecution of these offences. Naturally it will also improve services to patients.

12:20 p.m.

We have been gratified by the response to the kit. For example, it has been in use at the McMaster University Medical Centre since last fall, and Dr. Leonard Hargot of that centre indicates its use has resulted in an average conviction rate of close to 100 per cent.

The secretariat has been actively promoting better understanding and awareness in this area by the production of a videotape that instructs operations personnel on the correct use of the kit, and the physical and emotional care required by assault victims. That is a film you will find most interesting. If any members of this committee would like to see that film, we will arrange for a separate showing of it. It is about 20 minutes long and it is receiving an awful lot of public acclaim. It has limited display, obviously, because it deals with a rather delicate subject.

Secretariat staff have helped to organize regional meetings in local hospitals attended by hospital and public health nurses, physicians, crown attorneys, police, rape crisis workers and other personnel who have responsibility in this area. Included with the briefing material distributed to you prior to today's session were two booklets that continue to be in great demand by those who work with victims of sexual assault. They are entitled *Helping the Victims of Sexual Assault*, and *Information for the Victims of Sexual Assault*.

A group of people who often have very special problems in their contacts with the justice system are the developmentally handicapped. Last year the secretariat, in conjunction with representative bodies within the justice system and the broader social system, began addressing how to improve the system's capability to respond to the needs of handicapped people. An implementation group has been established to define those measures necessary to help the system more appropriately treat this type of person.

In explaining the role of the secretariat in policy development and research, I have already touched upon its activities as a co-ordinating

body. The assistance of the secretariat staff is essential when representatives from the policy field must come together to study a particular issue. This co-ordinating role cannot be underestimated as we move into an era when our problems are becoming more complex, and more interrelated and overlapping, and when greater uncertainties exist. Our future successes will depend on our ability to pool our knowledge, as we establish strategies and allocate resources, so that we can focus on common goals which will preserve the quality of life we value.

Mr. Chairman, those are my opening comments. We do have the kit here if, at some point, members might like to take a look at it. We found it impressive. In Hamilton they are talking in terms of a rate of conviction of 100 per cent. Given the rate for rape we had before, I think that is quite an achievement.

Mr. Philip: Are there certain groups that are using it and certain ones that are not in the same community? What do you do about that?

Hon. Mr. Walker: I don't know the answer to that; Ruth will perhaps elaborate in a moment. But it is fair to say it has had tremendous acceptance in some areas and gradual acceptance in others.

Mr. Philip: The lesson is that if you have been raped, you had better go to certain hospitals and—

Hon. Mr. Walker: You had better do it in certain towns.

Mrs. Cornish: The kit is in place in all the hospitals in Ontario. In most cases it would be used in every hospital if a victim turned up there. Hamilton has a different situation because McMaster was designated as the key hospital for seeing sexual assault victims. However, even in Hamilton, if you were a victim and you chose to go to another hospital, you would be seen there.

The kit contains detailed forms for the doctors to guide them through every step of the examination. It begins with a series of particular samples related to the items in the kit. They are colour coded to make it easier for the doctor.

When someone first goes in, there would be a collection of the clothing. The clothing would be placed in each of these individual bags as itemized on here. Moving on from that, the next thing would be to go to particular and very detailed body specimens, everything from head hairs, samples from the mouth, and fingernail scrapings if there is any suggestion, for example,

that the woman might have scratched the assailant and got that type of evidence. A third bag contains all the materials that the doctors would need for taking evidence that is more specific to sexual assault. This would include things such as collection of pubic hairs, samples from the vagina to indicate whether or not there was semen, and anal samples as well. These are the things that are in the kit and deal with the collection of forensic evidence.

The form itself also places a great deal of emphasis on the physical part for the care of the patient. It guides the doctor through the necessary medical examination, the types of things to look for that would be particular to sexual assault. Again, these would be things such as particular pelvic trauma or VD, since it often accompanies sexual assault, or checking to see whether a woman might have been pregnant at the point when she was assaulted, so that if there were a subsequent pregnancy the husband or boy friend could be ruled out. Also, the doctor would pay attention to the need for consideration of following through on the pregnancy if, in fact, the woman were found to be pregnant as a result of the rape, or at least making the woman aware of that.

Mr. Philip: Would that be done at that point?

Mrs. Cornish: It would not be done at that point in one sense. But there is a real need in this whole area and it speaks to the problem of why doctors have been reluctant to see patients. Historically they have not been trained for this at all, so many of them might indeed not think about it as a problem. There is a need for them to draw to the woman's attention that she should be aware at this point that there may indeed be a danger. They do have to do a base-line pregnancy test right then to rule out whether she already has a pre-existing pregnancy. It is quite an important component.

To conclude, I might elaborate on the question of what we do for the particular hospitals. I think our experience has been that the reluctance to see victims seems to have been coming much more from an unfamiliarity with the need to carry out all these procedures. Indeed we did not have many, but we did have a few doctors who indicated reluctance when we first put the kit in all the hospitals in February this year. Since then, even in those cases, the kit has been used quite successfully.

I think our feeling is that once the educational part of the program is completed, doctors are more aware of the medical requirements. They are also aware that once there is a standard kit,

we would hope they could move to a system where they would not then have to expect to turn up in court just to be challenged on the collection of the evidence. The kit will improve that as well. The cost of the examination is now also covered under OHIP, so any person can turn up at the hospital and see a doctor and request this, in the same way she could have any other routine examination.

12:30 p.m.

Mr. Williams: I have a question, Mr. Chairman. I do not know if anyone here is skilled enough to answer it, namely a medical doctor. It was my understanding, with regard to that aspect of your comments dealing with the likelihood of a woman being impregnated as a result of a rape, that because of the stress the woman would be going through during the incident, the body chemistry would react in such a way that it would likely prevent the possibility of egg and sperm coming together, so that the physiological makeup of a woman in a stress situation would not permit pregnancy to occur.

Mrs. Cornish: No, Dr. Hargot at McMaster University has been doing a study for three years and his statistics would counter that and demonstrate that pregnancies do often result from sexual attacks. It would have a great deal more to do with the stage of the woman's particular cycle at the time of the event.

Mr. Williams: Of course, but assuming that she is fertile at that moment, my understanding was that even in that situation, the body responses would be such that they would not permit the normal pregnancy to occur.

Mrs. Cornish: The documents show that many sexual attacks result in pregnancy.

Mr. Williams: Is this study complete or is it still in progress? Have any other studies been undertaken in other jurisdictions or even within Ontario that would provide us with some useful statistics on that point?

Mrs. Cornish: Dr. Hargot's study at McMaster covers a three-year period. It is not completed yet, but he expects it to be completed at year-end. He will then be presenting it in a learned journal and to the Ontario Medical Association. There are also studies in American jurisdictions that demonstrate the same thing, namely that pregnancy is frequently an outcome of sexual assault.

Mr. Chairman: I am not sure that question should have been asked at this point, Mr. Williams, in fairness to Mr. Renwick.

Mr. Williams: Was there something wrong with that?

Mr. Chairman: Yes. We were in the midst of the minister's statement.

Mr. Williams: I think some other questions were asked earlier for clarification on other points.

Mr. Renwick: Were you suggesting that the other critics make their statements, Mr. Chairman? Is that what you were suggesting? I am quite prepared to defer. My question was a relatively simple one.

Mr. Chairman: No, in fairness, I think you should go ahead if you have a brief question at this point.

Mr. Renwick: This is not criticism at all, but why do you limit this kind of process to sexual offences? Surely it could be used for the matters you were speaking about such as child abuse and domestic violence—one could almost say, in each hospital for all forms of apparent violence.

Hon. Mr. Walker: The point is well taken. I do not know that it is a case of us limiting. We have to start somewhere. This is the first time it has ever been done anywhere in Canada and I dare say in North America. We have to start now with this and we are treading very carefully in this area.

I must say that the results of this kit having gone on the market, which happened in October 1980—

Mrs. Cornish: We put it in McMaster last year on a test basis and in all hospitals in February of this year.

Hon. Mr. Walker: Given that it has only just come into being and given that we now have the results, we are inspired by them. If we get a few more comments like the McMaster situation where they are talking of a 100 per cent success rate in convictions, then I think we are going to be awfully interested in moving into other areas. At the moment the results are nothing short of excellent. That is an inspiration for us to move into the areas you are suggesting.

How many years did it take us to develop this? Was it three years?

Mr. Sinclair: Three years since we had the first consultation.

Mr. Renwick: Perhaps later on in these

estimates, when the other statements have been made and there is more general discussion, we could pursue that.

Mr. Chairman: Do you have a supplementary, Mr. McGuigan?

Mr. McGuigan: I am wondering whether the results of this study show whether it has led or it is liable to lead to more violence on the part of the perpetrators. I see there has been a 100 per cent conviction rate.

Hon. Mr. Walker: I would think it might lead to less violence. I would hope the more the rate of conviction increases—the more the likelihood of capture, so to speak, increases—the better the chances that less violence will be conducted. Who is to say? That is just a feeling I have.

Mr. McGuigan: It does not work out with murder and so on.

Mr. Sinclair: Mr. Chairman, I wonder if I could add a word here. Previously there were two real problems in getting convictions in cases of rape. One was the way evidence was given in the courts, and often women were very reluctant to appear. The other was that evidence was never collected on a uniform basis. Since rape cases do not come into hospitals every day of the week, there was no familiarity with what should be collected and often the evidence was simply not there.

I think the first of those problems was overcome when changes were made in the Criminal Code by the federal government some three years ago. We have overcome, we think, the second one with the development of this kit. As the minister has pointed out, there has been tremendous interest in it, not only from other jurisdictions but from bodies such as the Department of National Defence, the Royal Canadian Mounted Police and so on.

Mr. McGuigan: I was not critical of the program. I think it is great. I just have my fingers crossed.

Mr. Sinclair: Yes, sure.

Mr. Chairman: Thank you. Might we carry on with Mr. Breithaupt, the Liberal critic?

Mr. Breithaupt: Mr. Chairman, we have just three hours for the estimates of this secretariat. Since somewhat over an hour has already gone by, my opening comments will not be lengthy. I have been newly appointed as the opposition critic in the area and it is one that interests me very much.

For the benefit of some of the new members, I

should remind them that these policy secretariats are a legacy of the 1970s and the Committee on Government Productivity. Separate ministers were appointed here, in social development and in resources development, to co-ordinate the policy fields. The initial ministers were, of course, really a reflection of the 1971 Tory leadership campaign won by the Premier (Mr. Davis). Instead of being back-benched, the losers were front-benched in their appointments to noncontroversial and supposedly low-profile thinking areas, far away from the activities of question period and the interests of the press gallery.

The lack of daily activity and being forced to sit somewhat mute in the Legislature brought predictable results. Allan Lawrence and Bert Lawrence quit, and Robert Welch continued his long-running game of musical chairs while he occupied this office as one of the 10 portfolios he has had in the past 15 years. Indeed, he liked it so much, he did it twice.

We have at least made some progress. No one can truly say seriously that we should consider ever again having a secretary for this task who is not also a line minister. It is a travesty in our Legislature that we continue to have two others in the cabinet who have nothing better to do than waste hours and keep minutes. Indeed, the size of the cabinet could easily be cut by removing those two, since it is clear that one minister can do the co-ordination within the policy field as a part-time responsibility.

We have another saving, and not the least important, because the secretary does not have a parliamentary assistant. Since only eight of the present 70 members of the government party are not receiving extra dollars from the public purse for their legislative efforts, perhaps one of those eight lost sheep could be pitied and brought on board. Again, the saving in not having done this may just be an oversight on the part of the Premier and not really another indication as to the value of the job.

But at least a part-time minister and no parliamentary assistant are something to be grateful for. At best the function should become part of the duties of the Attorney General (Mr. McMurtry), as the senior minister in the policy field. While the Attorney General continues to be, inappropriately, the Solicitor General, he could hardly have a third portfolio as well. If the Solicitor General's task is seen as just part-time, think how the secretariat would be seen.

12:40 p.m.

The fact that a person can do those two jobs at all seems to me proof of Parkinson's law that work expands to fill the time available for its completion. As a justice policy matter we hear the rumours of a cabinet shuffle in the fall, when Mr. Sterling would like to become the Solicitor General. Perhaps at that time the secretariat can return to the Attorney General's care and can be removed once and for all from the prospect of having a separate full-time minister.

The work being done by the staff of the secretariat is of great value. It is only the prospect of a separate cabinet person, much less a parliamentary assistant, that should worry those who care somewhat for the public purse. The general cost of \$786,200 for this secretariat from public funds is a modest enough sum in these days of \$20-billion budgets. Indeed, the cost saving is just one out of many \$20,000 outlays that this government will spend this year.

I certainly hope the comments of page six in the briefing material are correct, where it states, "In this way there is an integrated and consistent approach to the policy decisions which are ultimately made by the cabinet." That indeed is a worthy goal for this organization.

Since there is only one item in this vote, I will address my comments to a number of the specific areas as they are outlined in the briefing papers. First of all I would comment on the theme of justice data information and statistics, which begins at page 10 in the briefing material.

The positive reasons for having current comparable data are clear to all of us. Indeed, on reviewing the two-volume report on the implementation work group on justice statistics I was rather surprised by the clear need for such immediate numbers. One thinks that these figures are being kept and available, and it is now apparent to me how much in the past we have developed ideas and themes in many of the social service and justice areas from mere hunches or presumptions.

I commend Don Sinclair, as the deputy secretary and chairman of that group, for a most commendable series of recommendations. I suggest that his comment in the summary of the report bears reading into the record of the Legislature. Mr. Sinclair writes this:

"We are all better informed in this area than ever before, and we can only hope that the growth of our information and knowledge is matched by an increase in our wisdom. For if we are wise enough and sufficiently farsighted we will so establish the centre, so secure its

relationships, so develop enthusiasm for the task from all jurisdictions that Canada's programs of justice statistics could in five years become a model for all."

I think those remarks are most worthy of being considered by all the members of the Legislature, because we deal daily with matters of justice in all the areas in which we operate.

There is one item, of course, which flows from that comment: that is the work timetable plan, which is chapter seven of the first volume of the report. If you look at that particular item you will note that by May the Canadian Centre for Justice Statistics was to have been created. Further, by April, with respect to resources and staffing, the executive director was to have been appointed.

I understood from the minister's opening comments that the centre itself is on stream for September, I think it was said. Perhaps I could have just a detail or two on that and, as well, on whether an executive director has been chosen, who the person is and what that person's qualifications are.

Mr. Sinclair: I would be glad to respond to that.

Hon. Mr. Walker: Do you want it now or later?

Mr. Breithaupt: Whatever is convenient. We can perhaps deal with these particular points in case there are other supplementary questions. It certainly does not bother me to deal with the particular themes as they develop.

Mr. Sinclair: Mr. Chairman, in answer to Mr. Breithaupt's question, yes, the centre has started, although its official opening will not be until September. The work is now under way. The executive director of the centre has been appointed. It is a man whose name is Gaylen Duncan, who is a lawyer and has been acting for the past three and a half years as the executive director of the Canadian Law Information Council.

The other senior staff within the centre are being appointed now. You may have seen a long ad in the *Globe and Mail* about six weeks ago advertising all the senior positions that fall directly below the executive director. I think of the six senior positions, appointments have already been made in two. The interviewing process is still going on for the other four.

The other comment I would like to make is that you were referring to this document, Mr. Breithaupt, the previous report. I think we did circulate it last year, but it is available to those of you who have not seen it.

There were two reports: one is green and the other is blue. In the blue report, the committee of which I have had the pleasure of being chairman recommended that the federal government increase the budget for this operation from \$1.5 million to \$3.5 million immediately and to \$5 million within three years. The federal government did accept that recommendation, as well as the recommendation that this operation be now a separate satellite of Statistics Canada, and, most important of all, the recommendation that the selection of programs of statistics, the priorities of those programs and the policies of the centre be in fact controlled by a group of deputy ministers of justice across the country together with the chief statistician.

So instead of StatsCan collecting information that it thought might be useful, as in the past, it is now in a position where it can collect other information that the justice community and the public know is useful.

Mr. Breithaupt: Thank you, Mr. Sinclair. I have also reviewed the contents of the terminology volume, and I noted in the introduction to it that it was the hope that this would be a model, as it says, for other provinces which may wish to engage in similar initiatives.

I understand from the briefing notes that Quebec has used this model, and the minister mentioned this morning that it has been well received across the country. Are the other provinces, at least some, now committed to following suit and using this whole program in a consistent way?

Mr. Sinclair: Mr. Chairman, this is a sort of final job to be wrapped up by that statistics committee. We are awaiting comments from other jurisdictions. In general terms, about 80 per cent of what is in here has been accepted; 20 per cent of it is arguable in some provinces or other provinces. The work on this and the production of a standard terminology is expected to be completed by the end of December.

Mr. Breithaupt: So as a result, other provinces will be making certain suggestions, there may be some revisions—

Mr. Sinclair: That is right.

Mr. Briethaupt: The eventual national standard is expected.

Mr. Sinclair: That is correct.

Mr. Breithaupt: I certainly found in paging through the publication *Justice Statistics Ontario*, 1980, that it is a useful tool from which all sorts of comparisons can now be made, and I

would commend the secretariat and its staff for the currency of the information that is contained in the volume.

One particular item caught my eye as I paged through it. That was on page 167, and the Minister of Consumer and Commercial Relations (Mr. Walker) may also be somewhat interested. I have been the critic for the past three years for that ministry. I was interested to note the more or less similar numbers of written complaints in all areas over the years and the amazing falloff in actions taken. Over the past seven years the number of actions taken per 1,000 registrants was from the one to two range, but in 1980 it fell to 0.3.

Perhaps, although this may not be exactly the appropriate place, the minister in his other hat might find out for me if this was a result of sort of waiting for self-regulation of insurance agents, or for other reasons. If not, perhaps he could dig out the reasons for me. It just seems rather a curious drop in the taking of actions as such. I do not expect that the minister would have a particular answer at this point, but it is something I found of interest.

Hon. Mr. Walker: Just a general observation on that: There is far more mediation now being encouraged through our divisions. That, then, by exclusion takes away the need to have individual actions commenced. So we would hope that we are offsetting the actions being taken by mediations that result in satisfactory conclusions. I will try to identify that matter more specifically.

12:50 p.m.

Mr. Breithaupt: I just found it to be an interesting point.

Hon. Mr. Walker: I might be able to get some details on that over the weekend.

Mr. Breithaupt: I don't think there is any real hurry.

With regard to the interministerial committee on the victims of crime, as referred to on page 17 of the briefing notes, I can assure you that I entirely agree with the view that the rights of the innocents, and indeed of the victims, have been neglected in the trade-offs that have been made in our society.

I would like to hear something more, or at least receive material as it develops with respect to the five pilot projects that will occur in the communities in which they are operating. I understand there are four other communities as well as my own city of Kitchener. Certainly from the variety of sizes of the communities, we

should receive a fair sample from the province. The development and the reporting from these programs is going to be of interest to us all.

Could the minister comment on that particular theme, how close we are to having these organizations in place and how the three types of services referred to have been developed? Are the information pamphlets in place? Are the trauma services under way now? What are the court-related services and are they all in place?

I recognize, Mr. Chairman, that I was a few moments late and the minister may have commented on those matters in his statement.

Hon. Mr. Walker: All in planning; nothing in place.

Mr. Breithaupt: All in planning at the moment. Is there a date to which you are looking forward to having things under way?

Hon. Mr. Walker: Within this calendar year.

Mr. Breithaupt: Thank you. In the area of the victims of sexual assault, I would share with the provincial secretariat the concern of many in my own constituency who involve themselves in the program to bring their concerns to both the Attorney General and the federal Minister of Justice.

Members will be aware of the petition that was gathered in western Ontario. I know the minister was personally involved, as I was. I managed to learn of that petition as I was canvassing and happened to call upon the home of the lady in our area who was particularly interested. I encouraged her to bring it, and a number of supporters for the petition, to an all-candidates meeting, with a resultant success. All the candidates in our three constituencies in the Kitchener-Waterloo area supported the petition. That gave some further publicity to the interest. I hope as a result that it possibly gave a useful boost to the matter.

Mr. Philip: What was in the petition?

Mr. Breithaupt: The petition dealt with the penalties and the uncertain results that appear to occur in the courts with respect to sexual offences against children, and the apparent need, just to paraphrase my recollection of it, to have a much more consistent approach taken. This is not in the matter of revenge, because in many instances, as we all are aware, there are certain illnesses that seem to be apparent, but is rather to ensure that facilities are available to treat persons who require that treatment and—I think it is fair to say—to be consistent in the approach.

I know the petition was given to the federal Minister of Justice, Mr. Jean Chrétien. I believe that occurred back in May and that, as well, a copy or information on the petition was given to the Attorney General.

As I recall in reviewing the estimates for last year of the ministry, our former critic in the matter, the former member for York Centre, Alf Stong, was especially interested in this theme. Can the minister advise as to whether consideration for the contents of that petition is going to form part of any ongoing discussions with the federal authorities? Just how will this matter be dealt with since it seems to be somewhat broader than the responsibilities only of the Attorney General?

Hon. Mr. Walker: The member for Kitchener knows my involvement in that petition. Indeed, I think some of the phrasing on the petition came from my own collaboration with the individual who started it in London. It arose out of what I would think the public would consider to be uneven sentencing involving child abusers—in effect, sexual assault—in one case involving a parent, at least a step-parent, so my support is definitely there. We have succeeded in having a victim's rights added as an agenda item for the justice ministers' conference in the fall.

One portion of that victim area is child abuse. So we will be addressing it on the national scene, and in that the federal government is at present entertaining amendments to the Criminal Code, and expects, I suppose, in the next few years to revise the code, I think it is timely that this subject be brought to the attention as forcefully as we can. I will be certainly advancing the case of this particular petition.

Mr. Breithaupt: I am pleased to hear that. I think the time has come to have some further consideration given in those areas, so that there is a somewhat more even-handed and consistent way of dealing with this very upsetting and unfortunate occurrence.

We have referred, as well, to the two publications with respect to sexual assault, and it is interesting to see today the sample kit that is now going to be in use within the province. Both of these publications have Mr. Welch's name in them, so I presume they are about two years or so old. What is the circulation and the continuing interest in these documents? Are you reprinting? What is the demand? How are they distributed? What can you generally tell us as to the way these are being received within the province?

Mr. Sinclair: Mr. Chairman, we do not put out very much in the way of leaflets, pamphlets and so on, from the secretariat, but those we do always seem to be best sellers. We really cannot meet the demand for some of these.

This, of course, speaks to a smaller audience, yet again we have reprinted, I think, four times, since we first sent these out. I could get the actual figures for you, Mr. Breithaupt.

Mr. Breithaupt: It was just a matter of general information. The fact they have been reprinted obviously shows there is a great interest, and that is, of course, to be encouraged.

Mr. Sinclair: Probably, just for your own interest and for other members of the committee, the one that we cannot get enough of is this.

Mr. Breithaupt: Yes, I was going to ask you about that, with respect to your publications and community education. Certainly this family, one might say, of five pamphlets on vandalism, exhibitionism, impaired driving, shoplifting and responsibility, are quite attractively done. I was wondering what sort of distribution they are receiving, and where they are being displayed and made available. They are colourful, attractive and easily set out to stimulate interest in a student, particularly with a project or however it might be. I was wondering how many of these were out and about, and what success and response you have had from those who have used them.

Mr. Sinclair: We circulate these to boards of education across the province and they, in turn,

circulate them to guidance counsellors in schools. They are intended for use by guidance counsellors and teachers in the school system. It is very interesting for us to see that in some areas they are used enormously. Obviously they are utilized by teachers, probably all teachers, from the numbers that they consume.

In other areas we find very little response. When we checked back on this we discovered it is simply because somebody or other just has not thought them important or has not brought them to the notice of the local schools. We are trying to plug those gaps now, trying to find out why they were not used in some areas; but obviously in others they are very popular.

This has a tremendous sale, not only through schools but everywhere. Anybody who writes in for it or goes to the bookstore, and parents who come across it all seem to be intrigued with it for very young children, the eight-years-olds and nine-year-olds.

Mr. Breithaupt: Perhaps when we return on Wednesday to complete the estimates we could have some information just as to the numbers generally, if that is convenient. This might be a convenient place to complete our work this morning, Mr. Chairman.

Mr. Sinclair: Yes.

Mr. Chairman: Thank you, Mr. Breithaupt. This meeting is adjourned until Wednesday morning at 10 o'clock.

The committee adjourned at 1 p.m.

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From the Provincial Secretariat for Justice:

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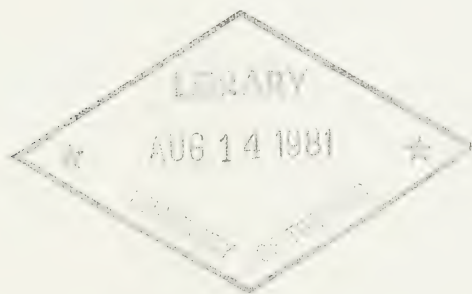


No. J-7

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Justice Policy Field



First Session, Thirty-Second Parliament
Wednesday, June 17, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, June 17, 1981

The committee met at 10:16 a.m. in room No. 151.

ESTIMATES, JUSTICE POLICY

(concluded)

Mr. Chairman: Gentlemen, we have a quorum. May we recommence with the estimates of the Justice policy field? We have one hour and 30 minutes left. Mr. Breithaupt was in the middle of his critic's presentation.

Mr. Breithaupt: Mr. Chairman, I will continue with my remarks, which will not be particularly lengthy. When we adjourned last day, Mr. Sinclair was going to obtain some general information on the number of publications that have been issued and distributed, where they are and generally who gets them—not only the attractive five items I referred to in the smaller pamphlets, but also the one entitled, *The Growth of the Laws We Live By*. I find these to be most interesting to the senior public school students to whom they are more oriented.

Hon. Mr. Walker: Would you like to have them now?

Mr. Breithaupt: Sure.

Hon. Mr. Walker: On the question raised by Mr. Breithaupt asking for information regarding the distribution of our Justice secretariat publications, these include *The Shoplifting Book*—I think you have a copy there. In the English edition, 138,000 have been printed. We have reprinted it seven times now and so far distributed 119,766.

Mr. Breithaupt: And the rest have been stolen.

Hon. Mr. Walker: In the French edition, 11,000 have been printed, twice reprinted, and 7,152 distributed. Other publications are *Impaired Driving*, English, 75,000 printed, three times reprinted, 72,026 distributed and French version, 6,000 and 3,001 distributed; *Vandalism*, English, 113,000, reprinted four times, 99,833 distributed and the French pamphlet, 14,000, reprinted twice and 5,601 distributed; *Exhibitionism*, English edition, 71,000 printed, reprinted four times, 66,166 distributed and French version, 6,000 printed, 3,301 distributed; *Responsibility*, English, 61,000 printed, 51,721 distributed and French

version, 8,000 printed and 4,101 distributed.

In addition to the booklets I have just mentioned, to date we have distributed the following: *Helping the Victims of Sexual Assault*, 26,545 copies; *Information for the Victims of Sexual Assault*, 56,001 copies. In terms of publications that are of a more technical or professional nature, we have distributed just under 1,000 *Justice Statistics in Ontario*, 1980 and over 1,000 of *Ontario Criminal Justice Terminology for Statistical Data and Information Systems*, 1980.

That multicoloured booklet you have in front of you entitled, *The Growth of the Laws We Live By*, has been distributed to the extent of just over 86,000 copies and is in constant demand. With these, as well as the other publications, in addition to the figures given, there are distributions in French, which average about five per cent of the total distribution in English.

10:20 a.m.

Mr. Breithaupt: Thank you, Mr. Minister. That is interesting information to have with respect to the distribution. It is certainly encouraging to see that these publications, which I find attractively designed, are being well received and distributed within the province.

Again in this area of publications and community education, I was pleased to see the leadership and development in explaining the system of justice in Ontario that has come from a program in my own constituency. In Kitchener, the *Aequitas Incorporated* group produced a number of video tapes that have had some distribution, which I hope will be seen by many of the people of our province in the next year or so.

Hon. Mr. Walker: We funded that entirely, you know.

Mr. Breithaupt: Yes. I was involved in the crime prevention week which the same organization was instrumental in putting together just the week or so after the last provincial election. In spite of the fact that there was no longer the same pressure for an immediate high local profile and response, I am pleased to report that my colleagues, Herb Epp and John Sweeney,

and I were all able to share in and learn from the experience. The events were most worth while and were well organized.

One of the aspects in the briefing notes which is dealt with at some length is the report with respect to the Ontario Native Council on Justice. I have only a few native people in my constituency. I know that other members have a large population. I have read with interest the progress report that is included and I will make my comments subsequent to those of other members. I think there may be others who want to comment on that particular report, which I found to be a most interesting experience since it was an area in which I had no personal experience.

I would like to comment briefly on the Young Offenders Act, which is referred to in the briefing notes at page 51. This is an area of law in which I was not particularly involved when I was in practice. However, it is one in which I do have a personal interest. I especially see the need to have modern statutes to replace the traditional views in our society, while keeping a pattern of the responsibilities which we can see as being important to the fabric of our society.

Can the minister advise us when the Ontario response that is referred to in those briefing notes will be completed? What is the time frame in which progress in this area is expected to develop what we hope will be a consistent national approach in the field? Do you really expect, as you cite in those notes, that it is going to take two years to do this?

Mr. Sinclair: We expect to reply to Mr. Kaplan by the end of July, but that is an initial response. He has already had one response from us, and there were two arguable areas. The problem of timing is hard to judge because of the problem of funding. The cost-sharing arrangements, I think, will be somewhat protracted in nature.

Mr. Breithaupt: I was concerned about the funding circumstance because it seemed that the work that was proposed could easily bog down if there was a lack of commitment to getting on with appropriate funding. I was wondering how that was going to develop.

Mr. Sinclair: That is under way now. The first round of negotiations on funding started two weeks ago.

Mr. Breithaupt: Finally, I suppose the only other theme I would like to look at is that of funding within the provincial secretariat. Who decides on the amount that comes to the policy

field from the provincial lottery? I know it is not usual for us to have funds particularly raised and then earmarked for a purpose. For example, the gasoline tax bears no particular relationship to the costs of highways, even though perhaps the Ontario Motor League would prefer it to be otherwise.

I was wondering—and it may be something that I learned a long time ago but have since unfortunately forgotten—how the funding commitment is made from the provincial lottery for funds to come to the policy field secretariat?

Mr. Sinclair: A special plea was made by Frank Drea when he was the Minister of Correctional Services for a commitment that some portion of the lottery funds be used by the ministries in the policy field. In this particular Justice policy field, the plea was for special projects of the kind that end up not getting supported because they do not quite fit into the kinds of things that ministries have, such as research projects and special pilot or experimental projects. It was \$1 million, to be allocated \$300,000 a year over three years. There will be a slip year to pick up the extra \$100,000.

The one exception was the Mississauga rail disaster study, which ranks in our books as being exceptional in many aspects and was not capable of being funded out of the Solicitor General's estimates. They had no way of coping with that. There was a special \$300,000-allocation for that study that was over and above the \$300,000 per year normally allotted and which has already been allotted in years one and two, with the third year coming up.

Mr. Breithaupt: In effect, this is for the kinds of projects you would like to do if you could. It is a bit of a discretionary fund in the sense that it allows a certain project to be attended to once it has been agreed upon in the policy field.

With regard to the Mississauga event, has the \$300,000 been used fully up to the time of the printing and distribution of the final report?

Hon. Mr. Walker: I cannot answer that because it is under the aegis of the Attorney General, but I think it pretty well has.

Relative to the lottery funds, there are a couple of other studies receiving such assistance. The Ministry of the Attorney General is involved in one, a violence project with York University which was set up about a year ago. Another was a victim-witness project in the Ministry of Correctional Services when I was the minister, which just did not fit into a kind of

framework that we, in corrections, could cope with. We were grateful to be able to have that allocation.

Mr. Breithaupt: Returning to the dollars involved, I noticed that one quarter of the funds has already been approved, in effect, by special warrant, which would have allowed the government the freedom of not having to face the Legislature for at least three months, although I see from the interim supply motion that even those moneys must not have been sufficient in some ministries because that is backdated to June 1. That will be an interesting thing to discuss at that point.

Hon. Mr. Walker: Remember, there was the election.

Mr. Breithaupt: Oh, yes, indeed. Obviously, it is important to have the opportunity for special warrants.

Hon. Mr. Walker: We felt it was important to pay the employees during that period. They were not prepared to wait for the outcome.

Mr. Breithaupt: It is a matter of "keeping the promise," of course.

Hon. Mr. Walker: We wanted their support as well.

Mr. Breithaupt: I imagine you did.

Mr. Philip: A lot of them were afraid of being fired. They wanted to make sure they got their money just in case the government changed.

Mr. Breithaupt: We would even have organized the car auction, but that did not come out either.

Hon. Mr. Walker: We got rid of all of our old Packards, and everybody is now using the standard six-cylinder Chevs and things like that.

Mr. Breithaupt: Those large, older cars are quite attractive, though

It is interesting to see how the policy field has developed, particularly in the use of these additional funds for special projects. I think that is to be encouraged. I realize that while people in Kitchener and in London are able to contribute through their gambling casinos on occasion, people in Toronto are denied that opportunity. But by the constant and consistent buying of lottery tickets on almost every corner in the city, I am sure they are able to share in those projects as well.

Hon. Mr. Walker: We have increased the allocations for the Toronto market to make up for that.

Mr. Breithaupt: I think that is only appropri-

ate. We are fortunate not to have some of the problems. Mind you, our people are not as likely to be influenced by those opportunities as the good and innocent citizens of Toronto, who must be saved from themselves if not from anyone else.

10:30 a.m.

I have some comments on specific areas that may come up if there is sufficient time. I was interested in Mr. Breaugh's comments earlier on the whole matter of bail funds and the interest on those funds. Perhaps we will have the opportunity of discussing whether the policy field is looking at funds held in a variety of institutions for a variety of purposes, whether it is the official guardian's responsibility to ensure that the best interest rates are being obtained, how those interest funds should be used and so on.

That is a theme that may be worthy of the policy secretariat's time because we have a lot of money on hand from a variety of interests, such as prisoners' funds, funds received through the official guardian and public trustee, bail money, trust accounts—all sorts of things. Those moneys obviously belong to certain individuals, who should receive full and appropriate credit for their value. That is an area we may be able to discuss if there is time.

This completes my remarks at this time because I know other members have questions to ask in this area.

Mr. Breaugh: I want to begin this morning by saying that I appreciated having a chance to read through the minister's opening statement and was pleased to note that a number of projects are finally getting some long overdue recognition. I am happy to see that some of the pilot projects which have been put together in municipalities other than my own are now showing results. I hope I may read into that a kind of intention, particularly of this ministry, to try some nontraditional techniques for solving problems of domestic disputes, rape crisis centres and a number of other things.

But I must add this one sour note. It is rather sad that we are now only at the point of getting our act together in terms of issuing brochures to inform the public, gathering statistics and so on in an attempt to foster these nontraditional methods. I urge you to speed up the process. I sense in my community, with the kind of economic situation we have there, that crisis intervention is becoming more and more important.

The police officers in our jurisdiction are not well equipped. They are good police officers and they have a good regional force in the area, but there is a middle ground which is not well served by the law, but is left to amateurs. There are many groups which are attempting to set up crisis intervention centres and so on, but they are very poorly funded.

There has been some change in the last year or so, for example, in the rape crisis centre, which has funding. But there is not yet a network across the province to provide that service, although the need is virtually the same in every community. The need is perhaps accentuated in one like mine, which is going through rather difficult economic times.

The gist of the minister's opening remarks, I find eminently supportable, and I encourage him to expedite the process he has outlined. In the last few years the ministry has identified the areas where the needs are greatest. Some pilot projects have been tried and have demonstrated that these new techniques are cost-effective and can solve a number of problems from the community's point of view, which is perhaps the most important, and also from the police officer's point of view, which also has no small measure of importance.

It has been a matter of concern to me for some time that a number of programs in our correctional institutions are also almost amateur in nature, particularly those having to do with assisting the process of returning prisoners to society. I have been briefed on a number of programs which operate in federal penitentiaries, prevention institutions and in regional detention centres, and they seem to follow a pattern. Someone has a good idea, a group of local citizens take up that idea and go to the institution—federal or provincial—and if they can get through a security check, they begin to operate the program in the institution.

The problem is that the program does not really have status. It is not really endorsed by either the federal or the provincial government and in many cases the mix is certainly very confusing. For example, Community and Social Services will be involved in the case of a prisoner and his family because they realize that once the prisoner is released, they will be probably become their responsibility.

A young man from Oshawa came in to see me the other day about a program called Save The Youth Now Group, which I believe is now being wound down. It is being operated in federal institutions for young offenders whose conduct

is less than socially desirable and is not amenable to correction by the usual social service counsellor routine.

The program, which is modelled on the American experience, is a little controversial. These young offenders tend to be a little on the tough side and have been charged with offences a few times. Since counselling has been ineffective, the idea is to take these young offenders on a tour of a federal penitentiary—I believe Millhaven—and let the convicts talk to them, which seems to get the message through to them.

It is true, from my understanding of the program and from some news clips which I have seen, that the language is not that which would be used by a counsellor from the region of Durham social services department, and the techniques which are used by the convicts are not such that would be found in a University of Toronto psychology class. None the less, according to the counsellors I have talked to, the program works. An impression is made upon young people in the language and in the terms which they clearly understand. As the counsellor admitted to me, "Nobody else has been able to touch these kids."

The difficulty arises because of the status of the program, which is not officially recognized by the federal government, which runs the institution, nor by Community and Social Services, and most of these young people are in some way connected with that ministry. A kind of hold has been put on the program just to be on the safe side, I suppose.

The federal government says, "You can come into a federal penitentiary and run this program, but it isn't really sanctioned by us." Community and Social Services and, in some cases, the courts would be involved. They can send their clientele through these kinds of programs, but can stand back and say: "The program really isn't condoned by us. We use it; that's true. Some of our clients are participants. But if anything goes wrong, we really had nothing to do with it."

One of the things this ministry might do is to work its way through that system. Is there some way to recognize how even a controversial program might achieve some status and legitimate funding? As I understand it, and I have a number of friends who are in a wide variety of programs of this kind, the criteria are that you make it through the security check and do not cause any trouble inside the penitentiary. That

is all. I think there needs to be a more formalized process and a formal recognition of these programs.

My constituency office in Oshawa was formerly down the hall from the John Howard Society, and we used to trade clients quite a bit. It was quite a useful relationship for a lengthy period of time. They have since moved around the corner. But even an established program like the John Howard Society has funding problems because of the mix of people it works with and the ministries it has to deal with.

There is an established program and they are relatively sure they are going to survive. But they are not always sure about day-to-day financing and how they will make it through the end of this year. They seem always to be on the edge of new programs, new ministers and new staff people and trying to get themselves on some kind of firm financial footing which will enable them to do some long-term planning.

10:40 a.m.

That is one thing I find particularly aggravating. It might be understandable for new programs, such as the one I just mentioned, to have to go through some kind of a beginning process, to meet some criteria, to get themselves established. But surely something like the John Howard Society, which has been around for a long time, and I think by almost anybody's standards is not a threatening program at all, but one which does immense good—it certainly does in my community—is one which has passed the test by anybody's standards. There is one which really should not be left hanging on the vine for funding and for long-term recognition.

There is a problem there which I would like to put to you in an area I know you are concerned about and one in which there needs to be a good deal of work done.

Another area I want to deal with of a rather general nature is the matter of police officers. If I can go to a source called *The Bulletin*, put out by the University of Toronto, I think a rather interesting study has been done which outlines an area that has been of great concern to me. It was done by the Centre of Criminology and is a five-year study of Ontario police detectives. It has a rather dramatic name, *Making Crime: a Study of Detective Work*. Essentially, it attempts to determine just how much latitude a detective has in pursuing crime.

There was a little difficulty with the research. Although it confirms that it was done with a regional police force and that the study was

conducted around very real circumstances, there was a guarantee of anonymity as to which force it would be and which officers they were dealing with. That adds a measure of confusion to it. But it certainly does emphasize an area that many people who are interested in police work have been concerned with for some time, that is, do police officers, prior to getting into the court system, really decide what is a crime and what is not a crime?

We have raised a number of examples in here over the last year or so about areas where, from my party's point of view, there was not really a crime involved; there was a labour dispute involved. Then, all of a sudden, the OPP descends on a community, great expenditure occurs and charges are laid. There are all kinds of examples, from Boise Cascade to Fleck to Radio Shack to the recent hospital strike, and inequities are pointed out in the process.

In the same week, two officials from K-Mart, one of our larger corporate entities, were convicted—if I remember correctly, they really were convicted and were found to have broken the law—but got conditional discharges, which did not really bother them, the basis of which was that they were fine upstanding citizens. Yet two of my friends, Grace and Lucy, are out at Vanier Institute, and I suppose the basis of that is that they are not fine and upstanding citizens.

I would disagree with that. I think the situations are parallel from start to finish, from the police work which was done to the judicial process which happened to the sentences which were given out. All these factors seem to me to run in parallel, operating in fields which are similar, namely, labour relations.

In one, all along the line some choices were made to protect the individual; in the other, choices were made which were really quite the contrary to that. I do not understand that. If Grace and Lucy were the president of K-Mart and the recording secretary of K-Mart, would they really be sitting out in Vanier Institute this morning or would they have gone the other way? Would there have been some nice way found, in the wonderful way our courts work, to determine that nothing bad really happened here?

This study is one to which you should pay some attention because it is the first one I have come across which attempts to document, at the beginning of the process, what latitude there is, what kind of judgement calls are made by detectives working in the field, which will subsequently have great ramifications for it.

I am reminded that in my own community last year, just about this time of year, there was a great front-page story in the Oshawa Times that the Royal Canadian Mounted Police, the Durham regional police force and the Ontario Provincial Police had just conducted a massive drug bust. I believe something like 42 people were arrested. There were a lot of background stories about the great co-operation between the three levels of police forces, and that they had broken up a major drug ring. I really felt that something great had happened in my community.

I followed that story through the process, which I think was completed about two weeks ago. There was one that actually went to trial, and I believe a discharge was granted. On the question of whether police really make crime, whether they decide who gets investigated and how far this thing goes, this story is perhaps a good example of what they were trying to do in that study, namely, to try to trace how the decisions are made, who allocates the resources, what kind of charges are laid and how aggressively they pursue them.

In conversations and in stories in which he has been quoted, so I am sure he will not mind, the local chief of police and I have discussed this kind of plea-bargaining process in the courts now. As cases work their way through the system, great decisions are made and turns in the process occur so that some people appear to get off scot free and others appear to have the full force of the system brought down on their heads.

I want to leave a little bit of time at the end of these estimates for other members. I want to conclude by doing what members traditionally have done, which is to go back to one case they have in their files for which there seems to be no answer. This one is a puzzler for me from a number of aspects and it offers some things we might consider.

Not quite a year ago now, I received at my office an envelope, which is not a very dramatic piece of business. The only thing I noticed about the envelope was that, yes, it was a plain brown envelope. I must admit I get a lot of plain brown envelopes, so I pay some attention to them. The only thing which was different about this envelope and was apparent when I received it was that it came from a place near where I was born. It came from Box 280 at Bath, Ontario. I

was born in Napanee, so I thought maybe somebody down home was sending me something nice.

Hon. Mr. Walker: Which box number were you born in?

Mr. Breaugh: When I was born, there were no postal boxes in Bath.

The other thing that was readily apparent was the envelope had been opened. Usually my assistant will open mail for me. I asked her, "What was in this?" She said to me at the time, "I did not open that." I thought that was kind of strange. I phoned the post office downstairs and said, "I got an envelope today and somebody opened it." They immediately said, "No, we certainly did not do that here. We do not open members' mail."

I thought it was odd. When I went through the contents, I found it was from a person at Millhaven. I am aware that at many of our provincial and federal institutions they monitor the mail from certain prisoners. I went through it, but that did not really seem to apply in this case. It began to be of a little concern to me that somebody would write me something and someone else would look at it, not that this is usually a big deal, but in a sense, I suppose, it was worth following up.

I asked the Speaker to look into the matter of who was opening the members' mail. I must admit I normally do not get upset over anybody opening my mail, listening to my telephone conversations or whatever, but other people do. I thought it was worth raising. It was an interesting exercise to follow through the process because the Speaker said that nothing had happened here. He gave me a little decision on that; he had checked it out downstairs and no one had opened it in our post office. We went through the routine. The OPP said that nobody there had opened the mail. We wrote to the federal minister. In the first place, he said, "Maybe we did." Then in subsequent correspondence he said, "No, we did not."

As an ordinary member here, trying to figure out exactly who was reading my mail these days, I was unable to determine who did open the envelope. We all saw the envelope. The mail had been opened and someone had monitored it. We went through the whole process of prisoners' mail being monitored on an outgoing basis. In this particular instance, the federal minister assures me that they did not open it at Millhaven. Everybody assures me nobody opened it here. Just as a personal matter, I was unable to determine exactly who did open and look at this letter to me from a prisoner in Millhaven.

Somehow there has to be a way to find out who is monitoring my mail these days for whatever purposes, whether it is completely and totally innocent or whether there is some OPP officer or RCMP officer or Metro Toronto police officer sitting around whose job it is to read my mail before I get it. I think we ought to be able to perfect that system, which at least would tell everybody what the rules are. The rules certainly are not clear.

In the process of getting all of the correspondence together in a file, I was reminded that it is not easy to find out answers. From a member's point of view, at the very least there should be someone we can turn to so that if we are having mail opened, which I am told is a very serious offence, the agency responsible for doing that ought to be identified. There ought to be a process there and some reasons ought to be established. I am unhappy, to put it as politely as I can, that all I was able to determine, after about three months of writing to various people and raising the matter in every forum available to me, was that someone did open it and no one—federally, provincially or here—really knows who did. That seems to me to be not quite proper.

10:50 a.m.

Let me go on to the contents of it now. I want to say at the outset that I do not know this person at all. His name is Anthony Genovese, and I do know the circumstances under which he was sentenced to prison at Millhaven. I took the information which he sent to me, testimony which was presented at his trial, to a couple of criminal lawyers whom I know. They said that is fairly normal, as it had appeared to me. It is kind of hard to find people in the federal penitentiary who think they are guilty. Most of the occupants seem to feel that somehow the system slipped up on them personally and a mistake was made.

I must admit that it points out another interesting part of the judicial system. I read Mr. Genovese's correspondence to me rather carefully and he provided me with a transcript of the trial. Basically, his argument is relatively simple. He says that one or more police officers during the course of the testimony at that trial did not tell the truth and there was substantial changing of evidence in the process—all of which is pretty normal, I suppose, for a con on the inside to write to someone on the outside.

The other strange thing that happened in this particular file is another letter that came to me, and this one was not opened until I got it. It is not really of much use to me, frankly, because it

is not signed. There was a good reason given inside for not signing it. It obviously came from the outside; it had a Toronto postmark on it.

Basically, this little handwritten note on flowered stationery substantiates what Mr. Genovese said happened. It offers a set of circumstances under which someone overheard a conversation in the cafeteria in the building where the trial occurred and confirms what Mr. Genovese alleges happened.

Where could we possibly go with this? I talked to some lawyers on it and they said to me, "Of course, that could be the basis for an appeal and you could raise it in the estimates," which I am doing this morning. But how does one get at this without the whole judicial appeal process?

The one option is clearly there. Mr. Genovese, if he feels that officers perjured themselves in the process of the trial and offered evidence which was not true, can attempt to find a basis for an appeal and get that before the courts again—a long and expensive process. There is no real Ombudsman to whom one could turn in this matter. There is no simple way to do it.

What it points out, again going back to the previous article, is that in the gathering of evidence police officers do have considerable discretion. In the process of prosecution, crown attorneys have considerable discretion. We feel—at least I hope we do—that our judicial system is the fairest one we can put together. Yet here is an instance which is strange all the way through, full of a series of events for which no one appears to have any ready answers or even good explanations.

Here is a man who has been through the court process and is now in Millhaven with a little bit of confirming evidence from the outside. Yet I cannot, and neither can anyone I have consulted, come up with a ready answer as to how one would check this out without opening up the whole trial process again.

In other words, the process has gone so far as to determine the gentleman was guilty in the eyes of the court and was then sentenced. Yet it would appear that what he alleges about the testimony of the police officers may well be worthy of a little further investigation. I do not know of the mechanism which would allow that to happen, short of a full-fledged appeal being heard and really reopening the trial, which again would be an expensive and difficult process.

It strikes me that one of the flaws in our court system may well be that we assume the gather-

ing of evidence is almost without fault. Everyone does it under oath, I know. One can get that in front of the court and if that evidence is something which, for example, a forensic unit can bring in, it is hardly debatable. But certainly all kinds of verbal testimony about who said what can be offered.

In this case, Mr. Genovese alleges that an interview, which was quoted as evidence before the court, did not even take place and that certain kinds of words were put into his mouth. Profanity was used, which he alleges he did not use. Every con whom I have ever talked to has some story of a similar nature, so that by itself does not do very much. But then a second letter appears which really kind of gives you the outside of it.

One of the reasons I am attracted to this instance is that when I was on the regional council in Durham it happened that we shared a building with the courts out there and we shared a cafeteria with them. All of what is involved in this little letter that came to me subsequently I know does happen. Those who hang around courts for whatever reason, either waiting to go before the courts or because they are participants, know as with every other occupation in life there is gossip in the cafeteria. There are stories told there of what is happening upstairs, what is happening downstairs, how the process works and what the relationships are. If you have even a casual relationship with the police force, you know there are decisions made on what should be done and then subsequent decisions on how it should be done.

It is not really that I want to make an argument that Genovese was framed. I do not know that to be true at all. I want to make an argument that a piece of evidence put before a court has been questioned and there is no mechanism in place to check it out. There is no vehicle through which one might get a retrial in this instance that I can think of, short of the formal process which the courts have always used, a long and difficult one.

The charges against him are very serious. We should not diminish those at all. But there ought to be someone whom you could turn to, even if that someone is available only to the members of this Legislature, to kind of reopen portions of that case, to have a second look at whether all of the testimony provided by police officers in front of the court was indeed accurate or even open to question, and whereby that simple mechanism might subsequently lead to a retrial.

As it is right now, it is the whole ball game or

nothing. It seems to me that is not only unfair from the individual's point of view, but it is unwise from society's point of view.

I would be interested to hear if the Justice policy secretariat is considering any mechanisms which might make a case like this simpler for me to handle. Would there be, at some time, some means by which a member could say: "I have this letter from a prisoner at Millhaven. He points out to me something which he thinks went wrong during the course of the trial. I have a second bit of evidence which perhaps does not fully substantiate that, but at least says to me someone ought to take a second look at the testimony which was provided there"?

Subsequently, perhaps a retrial might be ordered or someone might come back with a good explanation to me as to who opened my mail, as to the accuracy of the testimony, and the basis of all of that. It seems to me we would do ourselves a service if we provided to the people of this province a judicial system which had that measure of flexibility in it. I think we are all in agreement that the gathering of evidence, the work of police forces, the work of the court system is now an extremely complicated piece of business.

The appeals process, which was devised some time ago, is also a bit of a crap game. You have to get in there and scrap and show substantial grounds to have a retrial. Yet it could be this one little piece of testimony in a subsequent conversation that was overheard which would establish that the whole system has major flaws in it and that you really cannot get at it.

I would be interested in the minister's comments on Mr. Genovese's case and on the other matters which were raised, in particular, on that study done at the U of T, which has the interesting title, *Making Crime: A Study of Detective Work*. It strikes me that those are interrelated and are substantive problems.

Hon. Mr. Walker: In response, Mr. Chairman, most of the matters addressed by the member for Kitchener (Mr. Breithaupt) have been addressed throughout the meeting; there are no outstanding ones. I will attempt to deal with those raised by Mr. Breagh and indicate that the case involving Mr. Genovese is very difficult to answer in any definitive way, certainly for me.

11 a.m.

The court system basically has an appeal structure in place with certain time limits applied to it. Should new and substantial evi-

dence be available or should an individual feel he merits an appeal—perhaps on the degree to which a sentence is made, or the severity of the sentence or fine, or even the profession of guilt or innocence—our system is such that in most cases appeals flow from there to higher courts. Almost invariably they involve a trial *de novo*, although it may be isolated to certain aspects of the case.

That system is tried and true, if I can use that cliché, and has worked extremely well in our hundreds of years of British justice. It is available, employed many times and undoubtedly rights many wrongs that occur at lower courts. That system is in place there.

That does not quite solve the problem you have raised. For one thing, the kind of information that has become available has come long after the trial, as I gather. In essence, the arguments put forward by the accused who was convicted were rejected by the court at the time. Basically, the court was saying that it did not believe what he had to say and rejected it, presumably, out of hand.

Now additional information becomes available, which may or may not be valid information and is based totally on hearsay, gossip and that type of thing—not the most substantial on which to build a case, but on the other hand, not to be ignored. There may be a valid argument being presented there. What does one do in that case? I suppose one can register a concern with the Ombudsman. That does not necessarily mean that it rectifies the individual case or re-adjudicates in this particular situation, but it might lead to a different set of circumstances or a different situation in another case of a similar nature. There may be some values that come from that. One person pays the price, but fortunately it repairs the damage in other areas if it is possible for the Ombudsman to do something about it.

The third thing is the less frequently used approach, which is to contact the Attorney General who, in some cases, has been known to make decisions subsequent to a trial decision and beyond appeal periods that might ultimately have some bearing. For instance, there have been cases where new trials have been ordered under the right circumstances. I rather doubt that this kind of circumstance would be sufficient to cause the Attorney General to step in and reverse a decision or, for that matter, order a new trial, which would be the more likely approach. But from time to time it has been done.

Indeed, the most famous one would have to be the one involving Steven Truscott, where the Supreme Court of Canada ultimately sat and reviewed the evidence and circumstances which arose, or that were presented in a book written by Mrs. Isabel LeBourdais, as to whether or not guilt should be continued. In fact, it agreed that the verdict given by the jury at the time was proper and that there was nothing untoward. In any case, it cleared the air. That is the one immense precedent that sits around and is a precedent for the future.

Where some cases develop a set of new facts that are overwhelming in their nature and such as to suggest that a new trial should be held, in that case the political route is probably the best route to go and the Attorney General is in a position, presumably, to make some decision that might alter the course of history as it involved that one individual.

Those are not perfect answers in the sense that I do not think they cover every situation, but they certainly cover a fair number of the situations that might be considered capable of revision, or where perhaps middle approaches should be taken. They are there. As I think about it now, I have no further situations that come to mind, other than what I have presented to you. But those are three fairly substantial ones that are available.

Your particular case, I do not think, would fall into any of the ones raised. I am not convinced that it should. I have heard what you have said. I have not heard the other side of the story. We have not heard the actual facts as brought out in the trial. Indeed, there might have been 10 witnesses who were absolutely strong on the position they took and were presenting evidence that was just incontrovertible. That might have been the case. Who is to say?

We were not at the trial. The judge was and the judge, presumably, arrived at his conclusion with the benefit of all the evidence presented, although he appears not to have had the benefit of the corridor gossip afterwards. It is difficult to answer your question perfectly, except to say that at least there are some avenues of appeal open.

You have raised some questions involving mail. I recall the case you brought forward in the last parliament. It involves the federal penitentiary and so we can pass the buck, so to speak. We can wash our hands and say, "It certainly is not us who would ever deign to open

that kind of mail. I am sure that nobody opened the mail here in this building. It probably occurred elsewhere."

On the other hand, we admit that we open mail in our correctional system. I just put on my former hat as Minister of Correctional Services. There is no question that there is a certain amount of censorship that goes on, both on incoming and outgoing correspondence.

There are certain exceptions. I was trying to recall the exceptions. You leave the ministry and you pull the blind down and forget what you have done there. At the time, I had all those details in front of me. To my knowledge, the Ombudsman is considered the person to whom you can write with impunity and not have any form of censorship whatsoever in the Ontario system. You can write to the deputy minister or the minister without censorship of your correspondence, as I recall. Am I correct on that?

Mr. Sinclair: There is no censorship as such. Letters can be read, but they cannot be delayed, intercepted or censored. They may be read. Obviously, incoming mail was a real problem in terms of contraband, especially when techniques for passing drugs became very smart indeed.

I will not go into the details of those except to say that sometimes a very innocent-looking letter would, in fact, contain narcotic substance. With letters to the Ombudsman, a special envelope is provided for the inmate and that may not be read or intercepted. The same goes for letters coming from the Ombudsman.

Mr. Breagh: Maybe I should clarify this because there are a couple of points in here that you have raised. This is a small quote from the Solicitor General of Canada.

"As you are probably aware, Mr. Genovese has been trying to develop a case against the Ontario Provincial Police. In consequence, most of the mail to and from Mr. Genovese at Millhaven is "privileged correspondence." This fact is well known by the officials at that institution. We, therefore, have been taking special care to ensure that there is no interference with his correspondence. During the course of the investigation at Millhaven, Mr. Genovese stated that in his opinion his privileged correspondence was probably being opened by individuals outside of Millhaven institution."

My beef really is I cannot find out who opened it. Aside from whatever Mr. Genovese may have as to the merits of his case, I think a member of this Legislature at least ought to be able to determine who the hell is opening his mail. I take that to be quite an offence.

I understand your position that in institutions which are run by the province you have a stated policy of this, this and this. But in this case, we have been able to determine only that, according to the Solicitor General of Canada, they did not open it at Millhaven.

Then I am left with phone calls downstairs to the post office asking if anybody opened it down there. Everybody down there says, "No, we did not open it." There ought to be a mechanism whereby I can at least determine who is doing it to me.

11:10 a.m.

Hon. Mr. Walker: Of course, the federal institutions are totally beyond our purview. I am certainly not going to apologize for what occurs there. With respect to the Ontario correctional system, I know that the whole process is under review. They are tending towards a more liberal approach to correspondence, keeping in mind always the question of contraband, and that is a concern. There are lawyers in the past who have deigned to send letters to inmates in our own institutions, and in some cases they have contained a form of contraband. We have had reason to be alarmed, and that accounts for some of the policies that take place.

The one thing I can say is that a person can send a letter out to the Ombudsman with impunity in an envelope that is provided and that is untouched. If it were a letter to be sent to you, it is possible that letter might be read but not censored. In other words, they could not cut off the last page or whatever, but they could at least review what was being said. In that case, we would know if they were taking you to task for a very nasty thing you might have done.

I have to say the policy is not clear, and we await some of the decisions of the court as well in these very areas. The Supreme Court has yet to rule, as I recall—at least when I left the ministry it had yet to rule—on the matter of solicitor-client privileges related to letters and correspondence going back and forth between an inmate and his solicitor.

Basically, in the Ontario system we tend to be fairly good when it comes to correspondence to and from MPPs. In fact, I do not think they have ever opened and read correspondence from an MPP. I cannot guarantee that because there are 52 institutions, and who knows for sure what they are doing in each place. I doubt there have been any opened and read, with some qualification, obviously. In the case of mail coming out, depending on the particular inmate, I doubt it is even read. In some cases, because they happen to know the kind of person it is, it may be read.

Mr. Chairman: Mr. Minister and Mr. Breaugh, we have gone down to the point where there is about a half an hour left, and we have four speakers who wish to ask questions or speak.

Hon. Mr. Walker: I have not finished totally with Mr. Breaugh's reply.

Mr. Chairman: I am open to whatever the committee suggests. We have four men. Could the minister and Mr. Breaugh wrap it up in less than five minutes to give the others five minutes each?

Hon. Mr. Walker: Let me move on as quickly as possible.

Mr. Chairman: Would you, please?

Hon. Mr. Walker: Mr. Breaugh made reference to organizations that have admission to provincial institutions and federal institutions. I cannot talk about the federal institutions, but I can say there has only been one organization, to my knowledge, in recent memory at least, that has been denied entry to provincial institutions. That was the Narconon, a group of people attempting to provide for narcotics assistance and drug abuse. That was an operation of the Scientologists of Ontario. That was one organization we were reluctant to encourage for a variety of reasons.

The volunteer system in the Ontario correctional system is simply phenomenal, with nearly 6,000 people in volunteer positions. It is really helping a great deal in providing personal service that sometimes cannot be rendered, for varieties of reasons, to individuals. I am thinking of Alcoholics Anonymous and the Seventh Step Society. I saw Mr. Cunningham in here a few moments ago. He has been instrumental with that, and we have worked hand in glove together with one or two institutions in the Hamilton area, the Maplehurst and Burch institutions. Volunteers have a great deal of admission to our Ontario system.

One of the ones you mentioned was the Save The Youth Now Group. That particular program caught my attention. I do not think I had been in the Ministry of Correctional Services in 1978 for more than a week when I asked that we try to generate that system within our own operation, appreciating that we did not have the same degree of nasty people, so to speak, that we need to have for that.

I am thinking about the Rahway example in Rahway, New Jersey, where in that institution there was a program called the scared straight program. That program received a lot of attention. It took in young people, mostly juveniles

who had run foul of the law, but had not quite reached the point where they were going to be incarcerated, but were knocking on the door and asking for an invitation in. They were encouraged to have an attendance in front of some of the nastiest characters—murderers, rapists and the worst sorts you have ever seen—who basically just scared the dickens out of these guys.

They talked to them in terms of what they understood in their own street language and in ways that only they could, which a social worker would not be quite able to transmit and which had not exactly been taught in the school of social work. They were able, in their own social way and in their own social work school approach, to really shake the boots off some of these people. Some of these people would just break down crying in front of them.

I think people can argue whether it is the right way to go or not, but it almost invariably achieved what it intended to achieve, which was to scare the pants off these kids. They were so shook up that in many respects they are thought to have gone straight afterwards. It remains to be seen, I suppose, whether they have because the program is not all that old.

However, the STYNG program was the one we tried to adapt in Ontario. That was out of our Belleville probation and parole office. We had to try to find the nasties, given that in our Ontario system our maximum sentence is two years and inmates generally tend to be the lesser offenders as opposed to the more aggressive and more serious offenders.

To allow it to work, they went into the Millhaven institution. At Millhaven, they were able to allow this program to work, and so far so good, so far as I know. The results are reasonably good, although in other parts of the country where it has been tried, it has been dropped. Our STYNG program is still going on, as far as I know, and it is getting some results. I suppose they are losing as many as they are winning, but if they are winning as many as they are losing, that is an important and significant gain they would not otherwise have been having.

I rather suspect that some kids finally said, "I do not think I want to go and spend my next five years with these fellows." So the program is working. The fellows in Millhaven have seen the show on television and said to themselves, "By gosh, we can do as well as those fellows down in Rahway." They put on some pretty good performances for some of these kids who, hopefully, have been turned around. We are optimistic there. Now I guess I had better stop.

Mr. Philip: Mr. Chairman, I have two matters I would like to bring up, one arising from the very interesting presentation by the minister. In it, he mentioned the various studies on crime victims and his concern over crime victims and the additional work going on in the ministry over that. One of the great victims I find in a police investigation, or indeed in a court case, is often the witness.

I have had numerous people come to me with information, but the moment I ask them whether or not they are willing to sign a statement that I can provide to the police and that will eventually result in a prosecution, they back off.

11:20 a.m.

Only a few days ago I informed the Attorney General (Mr. McMurtry) that I had information presented to me concerning the Ku Klux Klan and certain things surrounding the death by fire of two people in the Rexdale area under very suspicious circumstances and that I would be presenting him with signed statements by three people.

Those people have not shown. They called me and said, quite frankly, they are afraid. Even though they assured me, after talking to them at some length, that they would come into my office and present a statement that we could give, I still have not seen them.

At this very moment, a friend of mine is appearing in court as a witness. She is scared stiff. I am sure the major motivating factor for her arriving in court is that her insurance policy has a clause in it that states that if she is not co-operative with the insurance company she is not going to get the \$2,000 she is being paid for the loss in this theft. The person against whom she is testifying has a record of convictions for coercion. She says he has known underworld connections and she is afraid for her physical wellbeing.

It seems to me there needs to be more done on understanding the psychological problems of witnesses, of suggesting ways in which people like myself, who are dealing with information, can encourage witnesses to come forward, and of developing the kinds of support systems that allow a person to carry out his civic responsibilities, particularly when dealing with testimony that will lead to the prosecution of people who are known to be members of certain groups, be it crime syndicates or, in the case of hooligan gangs, motorcycle gangs and various types of groups that are noted for using baseball bats and other instruments on people.

The other matter I would like to deal with is

one that really falls into three or four different ministries. I would like to supply the minister with some information he may want to follow up later and that perhaps can be passed on to him. It is a matter which I wanted to bring up before but, with the election in the way, this is the first opportunity I have had to deal with it.

It really falls under the Attorney General, possibly the Minister of Labour, and certainly the Solicitor General. It concerns what happens when the newspapers get hold of a story that certain things are happening that are undesirable in society. There is a certain political pressure on the police to get in there and to say they have laid charges and have done certain things. When that happens I wonder about the rights of the accused and whether injustices are not done to certain people who have certainly not been proven guilty and who may lose months of salary and so forth while the thing drags on.

The matter I would like to bring to you was brought to my attention by the International Association of Machinists, Local 2323. They represent some 2,000 people at the airport who load airplanes and handle freight and baggage and so forth. I understand that 28 charges were laid against their members, with very few prosecutions. What has happened, however, and what the union brought to my attention, is that a lot of their members are well known in their communities, members of various recreational and sports groups. It casts a shadow over all of them when this kind of thing—this boastfulness, if you want, by the police that they have got so many charges—hits the press before we know how many people are actually going to face trial and so forth.

It also creates a problem for their members. I understand three employees were suspended without pay and, because of the thing dragging on, they went without pay for a considerable number of months. Air Canada, I understand, claimed that since they did not lay the charges, even though these people may be proved innocent—and that has been the case—they are not responsible for the loss of wages because the Peel regional police, perhaps on information supplied by Air Canada, laid the charges.

I also wonder about the sensitivity with which an ongoing investigation is conducted. A person who is not yet proved guilty is sitting on his front lawn talking to his neighbours when, suddenly, a police car rolls up and he is taken away. I wonder whether or not that makes very much sense. Surely it makes more sense to have the

matter done in a quiet way in which a plain clothes policeman comes up, asks if they will go down to the station voluntarily or asks them to consult their lawyer and go down voluntarily.

I would like to read two case studies. I am not going to use people's names but the minister will have them on the document I have given him.

This one chap says that in December 1977 he was working in a certain section of a baggage room. A bag with some rings in it came open and a fellow worker took one of these rings, unknown to him at the time. The supervisor found the bag to be open and reported it to the RCMP. Of course, this becomes even more complicated at the airport because there are the Peel regional police, the RCMP, the OPP perhaps, and so forth.

He says: "Because it was my chute I was taken to the ramp manager's office where I waited for quite a while. They contacted the passenger, a courier from Birks. He counted them and a ring was found to be missing.

"Our lockers were searched and opened in front of fellow employees. We were taken to the Peel police station in Mississauga. I was interrogated and accused of stealing some rings. I denied it. I was stuck with a wad of paper and thrown in a cell for a couple of hours. I was released and charged with theft later.

"I found out the other fellow had admitted to the theft and the one ring was retrieved from him. I had to hire a lawyer as my own union could not use theirs and the lawyer cost me \$500. I contacted the fellow and had him witness a statement to my lawyer exonerating me from the involvement.

"We went to court approximately a month later. My lawyer contacted the arresting officer before court time and the charges were dropped against me. I was asked to return to work a couple of days later. I again have not received my lawyer's fees and Air Canada is not accepting any responsibility because it was not Air Canada that charged them, even though it was based on Air Canada's security information."

The other case is a little bit more alarming. "In December of 1979, at approximately 4 p.m. after work, two Peel regional detectives came to my apartment and asked if they could ask me some questions. I invited them in and they asked me if I knew a certain person.

"I answered their questions as best I could. They said that they were taking me to the station to ask me more questions. I replied that if I was not under arrest it was my understanding

that I did not have to go with them, due to the fact that I was afraid of being beaten up. They said that they did not do that kind of thing.

"I said I would like to contact my lawyer for advice. It was Saturday. I went with them. They interrogated me about the theft of stereos because my name had been dropped by another employee, a friend of mine whom I had seen the night before.

"I spent numerous hours in the cell. My girl friend kept trying to contact my lawyer, which she did. They bounced him"—I suppose that is the lawyer he is talking about—"from desk to desk. I never did contact him. He demanded to talk to the sergeant and told him to get me out of there and that they had no right to hold me and I was released and had to find my own way home."

11:30 a.m.

Mr. Makarchuk and I met some months ago with the union and talked to some of these people. Again, a lot of these people claim they they have been through a nightmare. They do not want to sign a statement; they do not want to recycle it. I can understand that.

Basically, there are three issues which the union people I talked to are concerned about. One is the way in which the police conduct an investigation, either before fellow employees or before other people in the community who respect them. Surely a person who has no record of acting in an improper way has the right to have some discretion, particularly when it is not a matter of tremendous overnight urgency. This guy is not going to go out and rape anybody or commit violence. There is a suspicion that he may have taken something, but surely there could be some discretion used by the police and by the crown officer about the way in which it is conducted.

The second thing is that, in laying the charges, surely we have here a series. Mr. Breaugh was mentioning a great number of cases of people charged in another incident where there were next to no convictions. Here we have had something like 28 people who were suspended from work pending their being proved innocent. So they have lawyers' fees. They eventually are proved innocent. But, meanwhile, over all that period of time they lose their salaries, and nobody is going to hire them. If you go in to try to find another job, they ask, "Where were you working?" You say, "Air Canada, the hangar out at the airport." And they say, "Well, why aren't you working there now?" You reply, "Well, I am under suspension pending the court trial."

There is the time element which concerns the Attorney General's offices. Once the charges have been laid, is there no way of speeding up court trials so that these people will not lose work or lose money for a great length of time?

The other matter concerns the Ministry of Labour. Maybe there should be certain labour laws to protect an employee's salary while he is under suspicion only and until such time as he is proven guilty of a particular crime.

As I said, I mentioned this problem some time ago to the Attorney General. It is the first time I have had an opportunity to get it on the record. I hope that in your capacity as the co-ordinating minister of the various justice areas you can discuss it with the Solicitor General, the Attorney General and maybe even the Minister of Labour. Perhaps you could get back to me with a written response because I know that Mr. Williams and some other members have questions.

Mr. Chairman: Thank you, Mr. Philip.

Mr. Williams first and then Mr. Renwick is to follow. Could you limit yourself to five minutes?

Mr. Williams: How much time do we have left on these estimates?

Mr. Chairman: About 10 minutes.

Mr. Renwick: Mr. Chairman, I am supposed to be upstairs in another committee. I need four minutes. Could I have it, Mr. Williams?

Mr. Williams: Yes, sir.

Mr. Renwick: Thank you. I will be extremely brief.

Mr. Minister, a matter which you know is of interest to me and many others is the new Young Offenders Act in Ottawa and the work that was done on it. My first request is, would you be good enough to set aside a day in September, at which time you would spend half a day, together with your officials, in discussion about the Young Offenders Act, and give notice to all members of the assembly who might be interested in the topic? That bill affects everybody in Ontario and the implementation and the jurisdictions involved relate very much to that.

You will recall that you were good enough, a year ago, to bring me up to date on the matter, and I think that Margaret Campbell also attended a meeting about it. I think a lot of the bill is very good. It is Bill C-61 in the House of Commons. I would certainly ask any member of the committee who is at all interested in the topic to take the trouble to read Bill C-61.

I have two specific problems. I am very concerned at the laconic statement of alterna-

tive measures. Apart from that provision, the procedural thing seemed to make a lot of sense, but if we discussed it, we could have some real sense of what you are intending to do about it and its implementation, as it touches more than one of the Justice secretariat ministries. That is section 4, which seems to indicate nonjudicial proceedings in a very laconic way. I am also very concerned about whether or not it requires some more definition to protect the people involved from pressure, psychological or otherwise.

My last point is that in section 20, but elsewhere through the act, there is this strange clause, "arrested or detained." I am always concerned when somebody starts to play around with words. The word "arrest" has a real and definite meaning in law. When statutes start talking about detaining people, I get upset. I would appreciate it specifically if you would treat that point, not as a matter for September, but to look at and let the minister and the appropriate minister in Ottawa know about it. It is the Solicitor General, of course.

I think a number of members would be quite interested in knowing of the secretariat's involvement in the whole of the process leading up to this bill, what reservations you have, what comments or concerns you have about it, because I think it is a major bill. If the existing statute is any indication, it will not see the light of day again for another quarter of a century or more.

Hon. Mr. Walker: We will meet in mid-September and will notify everybody by mail probably.

Mr. Renwick: I think it is a very important bill, and we should all be involved in it.

Hon. Mr. Walker: It will be a useful exercise for us to go through it as well to get the benefit of additional outside input because we will be meeting in November in Ottawa. The meeting has been postponed now to November.

Mr. Renwick: Oh, well, there will be time then. By mid-September or September 20, a lot of the members will be around and available.

Hon. Mr. Walker: I am going to leave this in the hands of Mr. Sinclair, who will arrive at a date that we can notify everybody.

Mr. Renwick: Thank you, Mr. Williams. I think I have kept you four minutes exactly.

Mr. Williams: You did. Well done!

Allowing for the fact that we only have that many minutes left again in the estimates—

The Acting Chairman (Mr. Andrewes):—about six.

Mr. Williams: — I will reserve my questions to one matter, which arises out of some curiosity on my part in looking at the minister's opening statement and referring in particular to page 7 thereof.

In the effort to try to standardize court procedures, information and statistics that are available to the public, you make reference, Mr. Minister, to the fact that one of the initiatives being taken by the secretariat, for which I think you must be commended, is that at the different levels of the justice system we have different terminologies in use, even within basically the same setting, and that this does lead to some complications, and some ambiguities, too, I guess.

In an effort to try to remedy that situation, I see that a project was initiated in mid-1978, which has culminated in the publishing of this Ontario Criminal Justice Terminology for Statistical Data and Information Systems, 1980.

11:40 a.m.

Clearly it is a very useful document and, as indicated in the introductory remarks in the report, is being used on an intraprovincial basis. From looking at page seven of your opening remarks, and with the introductory material not indicating what is happening on an intraprovincial basis, I wonder if you could provide us with some clarification as to what is happening as far as adoption of this type of material by other provinces is concerned.

I note in the one paragraph on page seven that there have been some words left out. It looks like the original draft where it said that "a document related to justice terminology has been produced by the secretariat and is now being utilized blank blank in an effort to arrive at a common understanding of terms."

I wonder whether there had in your first draft been some verbiage used that indicated it being utilized in other jurisdictions? I wonder if we could have some clarification on my observations?

Hon. Mr. Walker: Those were obscene words. I was just not prepared to entertain that kind of language in this committee.

Mr. Williams: What is the situation?

Mr. Sinclair: Mr. Chairman, when we first developed the common terminology booklet, it was for use in the further development of a new criminal justice statistical system for the whole

of the country. As a province, we undertook to hammer out definitions for terms that are used to support those statistical systems.

Having developed that, we circulated it to other jurisdictions. I think Quebec was the first province to accept what we had given with very minor reservations. We asked people for their comments on our own work, and those are still trickling in.

It is our expectation that by the end of this calendar year, there will be commonality and there will be agreement among all the jurisdictions in Canada as to using what is basically this material, but with one or two recommendations in terms of changes, one or two amendments from the other jurisdictions. So we have taken the lead in developing this and we expect it to come into common usage across the country by the end of this year.

Mr. Williams: Is the document actually being used in some of these other provinces or simply being studied?

Mr. Sinclair: Not in its entirety. Some of the definitions have been agreed to by all of us, some are still arguable.

Mr. Williams: That is fine. That is what I wanted to know. I think, Mr. Chairman, that is the only question I had on that.

Mr. Mitchell: Since the time has obviously elapsed for the estimates of the provincial secretariat—

Mr. Chairman: You have two minutes, Mr. Mitchell.

Mr. Mitchell: I am quite satisfied that the questions have been answered. There were a few points I would have raised, but I move the estimates for the Provincial Secretariat for Justice. I would in that motion thank the minister for what I thought was an excellent presentation, move the adoption and ask that the minister be excused.

Mr. Chairman: Yes. Therefore, we have concluded the discussion on vote 1301, item 1.

Item 1 agreed to.

Vote 1301 agreed to.

Mr. Chairman: Shall we report the estimates to the House? This concludes the estimates of the Justice policy field.

The committee proceeded to other business at 11:45 a.m.

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No. J-8

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of Consumer and Commercial Relations



First Session, Thirty-Second Parliament
Thursday, October 22, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, October 22, 1981

The committee met at 3:46 p.m. in committee room No. 1.

After other business:

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

Mr. Chairman: We will proceed with the estimates of the Ministry of Consumer and Commercial Relations.

Mr. Bradley: Before the committee actually commences: One of the problems you discussed, and I think validly so, was the allocation of specific amounts of time. We found that certain varying factors prevented a consensus from prevailing, one of them being private bills that took longer and so on.

I would like to place before the committee for its consideration a suggestion in the form of a motion in terms of time allocation. If the members do not like it, they will certainly rule on that.

Mr. Chairman: I am sorry you cannot get the floor and make a motion from a point of order.

Mr. Bradley: No, I think Mr. Elston had said point of order. I did not say point of order.

Mr. Chairman: Okay.

Mr. Mitchell: In the light of the motion, I think the clock should be starting on the minister's estimates.

Mr. Chairman: Mr. Bradley, are you finished with your comments as to allocating the time?

Mr. Bradley: No, Mr. Chairman, very briefly—

Mr. Chairman: No, Mr. Bradley, may we start? We have been long enough in starting the minister's statement and in holding up the minister. I will recognize you first for your comments before the minister commences his statement. I am sorry. I have a further suggestion. It is for the edification and assistance of the committee.

Mr. Bradley: Okay. That is fine. I see what you mean.

The purpose of the motion, and I distributed it, is to allocate time, first of all looking at what perhaps we view as being items of particular importance, then allocating a certain number of hours for them.

One of the things we run into—

Mr. Chairman: You perhaps misunderstood me. I am going to start the estimates and get the clock running, and then I shall recognize you.

Mr. Elston: Well, perhaps before you do that—

Mr. Chairman: No.

Mr. Elston: Point of order, since I asked to deal with a point of order before.

Mr. Chairman: Yes.

Mr. Elston: It is in relation to the list of speakers which you had accumulated dealing with Mr. Williams'—

Mr. Williams: It is out of order.

Mr. Elston: No, it is not, because I am asking the chair—

Mr. Chairman: Not until he gets through with his question.

Mr. Elston:—to advise us, if there is an indicated number of speakers wanting to deal with a particular matter, if in effect anyone at any point can request that the question be put, and that is—

Mr. Chairman: The answer to that is yes.

Mr. Elston: Then how, if you presume to go along the list of people who are speaking, how can you favour an interjection from someone who had already spoken in his turn?

Mr. Chairman: But he moved that question, and that can be put at any time, and has no relevance as—

Mr. Elston: Who introduced the motion? The speaker.

Interjections.

Mr. Chairman: That is correct, but he has a point of order and, in answering his question—

Mr. Williams: He is out of order.

Mr. Chairman: Mr. Williams, I am answering Mr. Elston. That can be put at any time and has no relationship with the person who originally put any motion. The fact that it happened to be Mr. Williams has no relevance, but it can be put at any time, yes.

We are now considering the estimates of the Ministry of Consumer and Commercial Relations. We have 25 hours.

Mr. Bradley.

Mr. Bradley: I can understand. You want to get the clock rolling.

Mr. Chairman: Yes.

Mr. Bradley: Okay. I am sorry. I understand what you mean now.

Having said that, I have suggested members can have a quick glance at it now.

Mr. Chairman: Mr. Bradley moves that the time allocated for the 1981-82 estimates of the Ministry of Consumer and Commercial Relations be divided among the various items as follows: Ministry administration, including our opening statements, five hours; commercial standards, which includes the Housing and Urban Development Association of Canada new home warranty program, seven hours; technical standards, two hours; public entertainment standards, two hours; property rights, one hour; registrar general, one hour; liquor licensing, three hours; rent review, four hours.

Mr. Bradley: That is a second motion which I have made. I am sorry I have put it in the wrong order for you. I did make a first motion.

Mr. Chairman: Mr. Bradley moves, first, that the order of votes for the 1981-82 estimates of the Ministry of Consumer and Commercial Relations be arranged as follows: first, ministry administration; second, commercial standards; third, rent review; fourth, liquor licensing; fifth, technical standards; sixth, public entertainment standards; seventh, property rights; eighth, registrar general.

Mr. Bradley: In one motion, I have got the order, and in the second, a proposed amount of time to be spent. The reason I do this is, although I have not been a critic before, I have sat in on the CCR estimates, and one of the problems is that we always seem to run out of time on areas which could be of interest particularly to opposition members, but I think also to government members.

This allows the committee to set specific time limits, so we do not spend too much time on one specific area at the expense of other areas, which we ran into, for instance, in the Solicitor General's estimates.

I hope that members of the committee would favourably consider that, and that the chairman would have the power to require that a vote be taken for each item upon the expiration of the time allotted for that particular item. That gives the chairman the kind of authority that I think he needs, and he is not placed in any kind of dilemma at that time.

I hope this meets with the approval of the

committee. I recognize some of you may be chatting about it now. It also allows the minister's staff to know just when they are going to be required in here. Rather than having them sitting around all day, it tells them when, approximately, they can expect to be before the committee by having a specific time allocation.

4:30 p.m.

Mr. Williams: Mr. Chairman—

Mr. Chairman: Excuse me, Mr. Williams, could we get on with this vote first? Then Mr. Breithaupt is next.

Mr. Williams: This is a rather intriguing motion that we have before us, that a member of one of the opposition parties can foresee what he perceives to be the time required to deal with various aspects of the minister's estimates.

While the motion is perhaps for the purpose of trying to assist you in allowing adequate time, yet not unreasonably lengthy time, for members to deal with different aspects of the estimates, I think that remains at the discretion of the chair.

I think it is somewhat hypocritical that Mr. Bradley should be trying to suggest certain time restraints when, as has been clearly demonstrated over the past day or two, time constraints and commitments to keep to certain time parameters, such as time that would be given to dealing with motions that had been introduced before we went on to the estimates of the Ministry of Consumer and Commercial Relations, clearly have no meaning when they are not to serve the purposes of certain members of the committee.

I do not think we can anticipate adhering to any agreements that would be arrived at as we proceed through the estimates. I have yet to sit in on many committee meetings in the past where there have been agreements to keep to certain time frames. Occasions when these time arrangements have been clearly adhered to have been very few and far between.

Once we get going in the estimates, I think members have to have a certain amount of latitude, and that you have the discretion of the chair to ensure that both opposition parties and the government party members have equal time to comment. If there is some indication to members as to approximately how much time they would like to spend on a certain vote as we go through the estimates, then we will pre-terminate that time at the very outset.

I think we can all be accommodating in that regard as we move through the estimates, but I

do not think we should predetermine that at this time. Therefore, I would be reluctant to support this motion before us.

Mr. Chairman: I am going to allow Mr. Swart next, because—do you remember the order, Mr. Breithaupt, as to the critics, et cetera?

Mr. Swart: Mr. Chairman, I think this is the only sensible way to proceed, to try to arrive at some division of time before we start.

I take exception to Mr. Williams' statement. I do not know how he thinks this is hypocritical. I do not care whether the government members do it or whether the Liberals or the NDP do it. It makes all kinds of sense for us to determine at the beginning our priorities and our allocation of time.

Interjections.

Mr. Swart: For a number of reasons, which have been—

Mr. Williams: We could go for two days before the estimates started—

Mr. Chairman: Mr. Williams, Mr. Swart has the floor.

Mr. Swart: For a number of reasons, Mr. Williams' comment that we will not abide by it just simply is not true. This is a motion. It is not a consensus or anything else. We shall have to abide by it.

Interjection: Mr. Williams has violated agreements before.

Mr. Swart: I have sat on committees before where we have spent one third of the committee time on each vote, determining whether we went on to the next vote. I suggest that if we do not have some predetermination ahead of time of the division by vote, the same thing can happen. There will be votes put that we will move on to the next vote. I think this makes all kinds of sense for that reason, if we are interested in time.

I am not hard and fast on this division of time. I should like to hear from the minister on it. He may feel that it does not give proper priority to some areas, but surely we should set up a schedule of 25 hours and determine how we are going to use it, or we will be into a hassle on every vote we come to. You are going to have to make decisions which are going to be considered at least arbitrary by some members of the committee, and I may well be one of them. Then there will be challenges that we disagree with and we will get bogged down in procedure.

This is the way we should start and if anyone does not agree with the priorities, that is what

we should really be discussing, the priorities, whether we think these hours are right, not whether the principle of ordering our business is right.

Mr. Breithaupt: Mr. Chairman, I will be brief. During the three years that I was critic for this ministry it became apparent that with the minister's responsibility for more than 70 pieces of legislation in a great variety of areas and other commitments we very often did not get to deal with a number of areas. There simply was not time. Each of those years I tried to suggest a schedule to the committee so that at least each vote would have some time allotted.

It worked, more or less, and attempting to set a framework is a good idea so that a certain branch of the ministry is not completely ignored. Whether it is five or 10 minutes more or less is not as important as making sure that each part of the ministry gets some opportunity for comment. Some members may not have comments on one and all members may have comments on another, but it is important to have a framework.

You will find that it is a lot easier on the public servants to know when they could expect to be here; in other words, not this week but next, which is perhaps as close as they will get on some times. But I do suggest that where you have the 25 hours, it is of benefit to the chairman, to the minister, to the members of the committee to know that a particular area of interest may come up on a certain day and not another and they can make their plans.

Finally, of course, it is a great advantage, I would think, to the staff of the ministry. So, I would hope that you could come up with some framework because it would make the estimates flow a lot more smoothly. I just make that suggestion.

Mr. Williams: Mr. Breithaupt, just a question to you, through you, Mr. Chairman, if I might. It has not usually worked in practice very successfully, but at the beginning of the various items of the estimates there has been discussion and each party has indicated how much time it would basically want to spend on that. It was agreed at that time, as you came to that part of the estimates, rather than laying it out or determining it ahead of time.

Mr. Breithaupt: That is one way to do it. I have attempted to divide the time a little more precisely than that. Then it just avoided using up the 10 or 15 minutes in each of those votes on

that kind of a discussion. Having some framework is practical, whether it should be five hours, six hours or whatever.

If we did it once, we would not have to do it in each vote. It would be more practical, but, of course, we are in the hands of the majority of the committee as to how they view the proposal.

Mr. Philip: The common practice in this committee is to do this, and I would like to hear the opinions of the minister. We have heard from the two critics. If the minister is in agreement, I think we should proceed forthwith. If the minister feels he wants some changes in some of the times, we can simply agree in principle and perhaps work out some of the hours.

I think it is in the interests of the ministry not to have staff here occupying our benches when they should be out protecting the consumers. I would like them to be out there doing their job rather than—

Interjection.

Mr. Philip: I would like them to be doing their commercial relations, consumer relations, or whatever other relations they do during the eight to 12, or whatever shift they are on.

Mr. Chairman: Does the minister wish to respond to that?

4:40 p.m.

Hon. Mr. Walker: Frankly, it does not matter to me what you do. I am prepared to defer to the opinion of the committee and whatever way they want to go through, it is up to them. The only thing I ask is that at the end of the estimates we have all of our votes passed. How you get there does not bother me.

I will make an observation though. I think one or two suggestions that I intended to make in my opening statement should be telescoped forward. The committee may find it of interest in the area of public entertainment standards, for instance, to consider taking an hour or two to attend the theatres branch where it would be most interesting to see what they do have to do up there.

I would be prepared to suggest that. We have made some significant changes in the past year, many of which this committee entertained. Mr. Breithaupt, you were on the committee—

Mr. Breithaupt: I certainly was.

Hon. Mr. Walker:—when it entertained more than its share of time on matters involving the theatres branch. Some would say a disproportionate share of time was spent on it. But in the

light of the interest that was displayed there, and in the light of the changes we have made, which have been rather wholesale in the last few weeks or the last two or three months now—

Mr. Breithaupt: Do you have popcorn?

Hon. Mr. Walker: I do not know if we have popcorn, but I would be prepared to suggest that if members choose to look into that aspect. I would like them to consider that as an open request.

I know that Mrs. Brown, who is the head of the theatres branch, is most interesting to talk to and, indeed, maybe even other members of the Board of Censors would be most interesting to talk to. They would like to show you what they do include and what they do not include on movies which are either approved or not approved.

Mr. Philip: I do not think we should go on an empty stomach. Is that your recommendation?

Hon. Mr. Walker: I have no observation on that. But whatever you have in mind, whatever amount of time you want to spend that way, if you want to try and put aside some time, either during the estimates process or at another time from the estimates process, I would open that as a suggestion.

I have a second suggestion. We are directly involved in a number of matters with the Toronto Stock Exchange, and it will be moving from its quarters in another year. As minister I was most impressed when I had the opportunity to go down to the exchange and see the inside workings.

One can take the public tour. I was allowed to take a more in-depth tour and that involvement may be available to you some time. If we were considering commercial standards, you might consider looking at the Toronto Stock Exchange as an area attracting your interest.

Something could be done on relatively short notice there as well. I must say I was overwhelmed with it. It is one of the most amazing, interesting exchanges probably in North America, if not the world. It has capacities, the likes of which other countries would just love to have. There are some things there, I suggest.

A third thing, which is modestly facetious, but there may be some interest in looking at the operation of the racetrack industry, and if that is of any interest to you I would be glad to hear from you and perhaps something could be set up relative to that.

So, I make those three suggestions. Perhaps the theatres branch is the one that has the most

interest because of the significant number of changes that have occurred there. We are looking for your consideration and review of the process which we are taking, and we want to subject that to public scrutiny and improve it if we can. If you have observations to make, we welcome them.

At the moment, I offer these three things: theatres branch, possibly going to the Toronto Stock Exchange, and possibly looking into the racetrack industry. There may be others which come to mind and I would be glad to discuss them with you.

I merely interject that into the argument and say whatever way you wish to arrive at the final item of 1503, or whatever, satisfies me as long as you do not reduce the salary of the minister.

Mr. Chairman: Thank you. Mr. Mitchell is next, and then Mr. Renwick.

Mr. Mitchell: Mr. Chairman, in looking at the motion that has been tabled, I would like to move an amendment, if I may.

Mr. Chairman: Mr. Mitchell moves that the committee attempt to work within the time proposals, as outlined below, when dealing with the 1981-82 estimates of the Ministry of Consumer and Commercial Relations: commercial standards, HUDAC, six hours; public entertainment standards, three hours; and that the last paragraph be deleted.

That is an amendment. Is there anyone who wishes to speak on this amendment?

Hon. Mr. Walker: I would like him to repeat the hours beside each one.

Mr. Mitchell: Yes. The modification would be, the second item would be reduced by an hour and public entertainment would be increased by one hour.

Mr. Chairman: Fine. Mr. Renwick, you were next on the original motion.

Mr. Renwick: Mr. Chairman, on the original motion I would not have intervened on the discussion at all had the words of the minister not persuaded me to do so. I would ask the committee to reject the siren call of the minister to turn this into some kind of a personal educational tour for the members and a PR opportunity. If any member wants to do that on his own time he is quite at liberty to do so to make whatever outside investigations he wants. The role of this committee is to examine in depth and with a substantial amount of inquisitiveness—

Mr. Chairman: I have a point of order over here. Mr. Mitchell?

Mr. Mitchell: I would hope Mr. Renwick does not really mean that about the siren call and the other comments. It is an attempt to make sure you see every facet of the ministry and how it is working, and it is simply that.

Mr. Chairman: Now that, I do not believe, is a point of order. Mr. Renwick?

Mr. Renwick: I did not think it was either. All I am saying is that it is very easy for this committee to be turned into a travelling road show and to be engaged in listening to carefully prepared public relations presentations to further the goals, either of the ministry or of the vested interests involved.

The work of this committee is to examine in depth the expenditure of money related to the value of the work being done by the various areas, not to listen to presentations made on behalf of the multitude of organizations involved in this ministry, all of whom have extremely entrenched vested interests. I would say to the members of the committee, the work should be done in the committee room in the most efficient way possible within the very limited time available to us.

I would suggest that the committee not embark upon, certainly not in estimates time, visiting either the stock exchange or the race-tracks or theatre censorship branch. The questions that are at issue are questions of profound public importance. This is not an educational seminar for the edification of members.

Mr. Chairman: I am sorry, I was confused. I understand from the clerk, and since we were talking about allocation of times and Mr. Mitchell's amendment dealt with allocation of time, I thought we were dealing with that motion. Instead, the clerk tells me we are dealing simply with the order or changing of order. We are not dealing with hours at all at this point, correct.

Is there anyone else who wishes to speak to Mr. Bradley's motion, which is simply the changing around of order or rearrangement of order, if I may call it that? We are not yet dealing with numbers of hours.

All those in favour of Mr. Bradley's motion—

Mr. Williams: To deal with the rearranging of the order of the estimates?

Mr. Chairman: Yes, that is all we are dealing with at this point. We are not dealing with the motion that mentions time.

Mr. Williams: I have been speaking to the wrong motion then.

Mr. Chairman: Perhaps all of the comments have been relevant to each.

Mr. Williams: The motion that was before us was the one with the time frame set out by Mr. Bradley. Whether that is the motion that was tentatively discussed, that was the one that was clearly before the committee and the one we have spent 20 minutes talking about. I do not think we can change motions now.

Mr. Chairman: In fairness to Mr. Bradley, he did apologize for putting the other motion in front of us at the same time, and I believe he did clarify it. I did not catch it either.

Mr. Bradley: I am so easy and co-operative that whatever one you dealt with first would not matter to me.

4:50 p.m.

Mr. Chairman: Gentlemen, if we then say we are dealing with the one that deals with rearrangement of headings, does anyone—

Mr. Williams: Mr. Chairman, I see no reason for the motion before us to endeavour to reorder the business of the committee in dealing with the estimates. I think they are clearly set out and this matter of trying to rearrange the order of dealing with these matters may, in the minds of some members, set certain priorities and importance on certain parts of the estimates.

I think we have to proceed and deal with the estimates as they are before us in the order of the votes, in the same manner that time allocations will be determined on the basis of how long it has taken to deal with the previous votes. At the time we can assess our positions and determine how much time should be allowed for the upcoming votes as they arise. I do not see any need to reorder the business of the estimates at this time and we should proceed as they are laid before the committee.

Mr. Swart: Mr. Chairman, I am a little disturbed with the order of the votes. I do not feel too strongly about this one if we had dealt with the allocation of time. If we had dealt with the other one first we would know a certain amount of time was going to be allotted to certain things.

If we leave it the way it is on the original votes in the estimate book it means that rent review comes last. Now to us—and I would think to the government and to the Liberal Party—rent review is an extremely important issue. I have sat in one committee before, Mr. Chairman, where we never got past vote one.

I do not know whether there is any way of doing it unless you had unanimous consent that we deal with the question of the allocation of the time first.

Mr. Bradley: To make things easier, because most members appear to want to do that, I withdraw this motion for the present time and we will proceed with the other one. I think that will make it easier. Mr. Williams indicated he wants to deal with it, and Mr. Swart, and that is fine with me.

Mr. Chairman: Thank you. We are now dealing with the second motion received. The other one is withdrawn.

Mr. Bradley: Would you read Mr. Mitchell's amendment again?

Clerk of the Committee: That the committee attempt to work within the time outlined below when dealing with the 1981-82 estimates of the Ministry of Consumer and Commercial Relations. The commercial standards time allotment is changed from seven hours to six hours; public entertainment standards, the allotment is changed from two hours to three hours. And the last three lines are deleted.

Mr. Williams: We have been on this procedural matter for a half an hour.

Mr. Chairman: The official opposition critic gets the first kick at the can.

Mr. Bradley: Very briefly, Mr. Chairman, I appreciate that Mr. Mitchell is attempting to make things work and I appreciate his co-operation in this regard. I would have preferred what we had proposed but I think there is a compromise here.

The reason I mentioned it is that I think commercial standards have been a matter of such controversy; does not Argosy and things of that nature come under commercial standards? And I thought that since the members of the government caucus have been saying throughout the time we have attempted to get matters before the committee, "You will get your chance when the CCR estimates come before us," I thought seven hours might be reasonable in that regard. You have told us all along, "Wait for the estimates and then you can get at it." I do not know as far as public entertainment standards is concerned, although I cannot prejudice—

Interjections.

Mr. Philip: Let us get on with the business now and not talk about what happened two hours ago or 10 days ago.

Mr. Bradley: Public entertainment standards I did not anticipate were a matter of great controversy this time around because the ministry had made some substantial changes that I do

not think are going to be that radically criticized by members of the opposition. I could be wrong on that, but I did not see it.

That is why I was a little worried about cutting down to six hours, because even the minister has indicated he is prepared to answer any and all questions that would not prejudice any court cases or interfere with criminal investigations. I thought you would welcome that opportunity to have the seven hours, but I guess six is fine with us.

I just wonder what the first part means, when you say we will try to stay within it. I know you are looking for some flexibility, but we run into problems sometimes when we do not have a rigid standard. But I am prepared to support your motion. If I feel that what you are saying is going to get the support of the majority of this committee, then I would certainly support it.

Mr. Mitchell: I could not attempt to speak that way, Mr. Bradley. It is my impression of the motion you tabled and that is the way I personally looked at it.

Mr. Swart: I think there is an area of compromise here too. I think the seven hours is better for commercial standards. I will go for six and three. I am wondering if Mr. Mitchell might be willing to leave the rest of it as is.

I would point out that the committee does have the authority to order business. If some exceedingly important matter is brought up by anyone, there can be another motion moved. At least this way we will have set up a firm structure down the road. If you want to have discussion for another hour on an issue, that can be, but if you do not tie it down tight we can get into very real problems that we are trying to avoid. I would hope that he might be willing to accept that compromise. We will take the hours and are willing to make this time firm.

Mr. Mitchell: I move that the question be now put.

Mr. Chairman: You have moved that the question be now put. We will proceed with that.

We are now voting upon Mr. Mitchell's motion that the question be now put. We are not voting upon his amendment. All those in favour? That is unanimous.

Motion agreed to.

Hon. Mr. Walker: Could we have a recorded vote?

Mr. Chairman: Recorded?

Hon. Mr. Walker: If we are going to have unanimity in this committee, I want to be able to announce it.

Mr. Chairman: We must forthwith put Mr. Mitchell's amendment.

Mr. Swart: Excuse me, Mr. Chairman, I wonder if we might have it read. I am not trying to delay, I am just a bit confused. There was not really an amendment moved to delete this and insert in place something else and I really am a little confused about it. I would like to have the amendment read.

Clerk of the Committee: That the committee attempt to work within the time proposals as outlined below when dealing with the 1981-82 estimates of the Ministry of Consumer and Commercial Relations. Commercial standards is changed to six hours from seven hours, and public entertainment standards is changed from two hours to three hours, and the last three lines are deleted.

Mr. Swart: Then am I to assume they delete the first sentence in Mr. Bradley's motion and this is inserted in lieu of those words? You can hardly have both.

Mr. Chairman: Yes, I am advised that is the effect of it; that is deleted.

Mr. Swart: He is moving that this first sentence be deleted and those words inserted in lieu thereof; just so we know exactly what we are doing.

Mr. Chairman: Are you clear enough or do you wish to see it in front of you?

Mr. Swart: No, as long as that is the intent. Perhaps the mover could move that so we could have the appropriate motion before us.

Mr. Mitchell: I do not have it in my hands, Mr. Swart. It is in the hands of the clerk, it has been read.

5 p.m.

Mr. Swart: But is it your intention that you are deleting this first sentence which says that the time allocated for the 1981-82 estimates of the Ministry of Consumer and Commercial Relations should be divided among the various items as follows, and insert in lieu thereof "that this be a guide" or whatever your words were.

Clerk of the Committee: The words "time allocated for" are deleted and it becomes "that the committee attempt to work within the time proposals as outlined below when dealing with" and then you pick up with the words in Mr. Bradley's motion, "the 1981-82 estimates of the

Ministry of Consumer and Commercial Relations," and the words "be divided among the various items as follows" are deleted.

Motion agreed to.

Mr. Chairman: Are we clear we will now vote on Mr. Bradley's original motion as amended by Mr. Mitchell? All those in favour? All those opposed?

Motion agreed to.

Mr. Chairman: May we commence with the minister's statement? We are all through the preamble, are we not?

Mr. Swart: Mr. Chairman, I mentioned something to you previously and I want to clear it up at this time. It may not be controversial.

Is it agreeable to the committee that Mr. Philip and I—he is the expert on tenancy—split the leadoff time, provided we do not exceed that of the minister or the Liberal critic? Is there any objection to that? We have done this before.

Mr. Williams: Mr. Chairman, I think that this is an unusual procedure.

Mr. Philip: No, for heaven's sake.

Mr. Williams: I was anticipating I would be interrupted by Mr. Philip before I could even proceed with my remarks. That is more the reason I should make my point.

While Mr. Swart may suggest it has been done in the past, traditionally each party has its party critic and that person has certain rights and privileges that no other members of the opposition parties have, as indeed the members of the government party do not have the rights of the minister or his or her parliamentary assistant to proceed with the leadoff, in fact the minister makes the leadoff statement.

While tradition may have been broken in unusual circumstances in the last session of the Legislature to permit the status of critic being given to another member of the opposition party, I think it is a precedent that should not be pursued and followed. Mr. Philip, like any other member of his party, can come in at any time during the estimates to speak to any matter of interest to him in the estimates when that particular vote is under discussion.

I see no reason for certain privileges being extended to a member of the opposition party who does not have the status of critic. He should, like any other member, either of the government party or the opposition parties, have the right to come in later on in the estimates but should not be given the lead time along with the official critic to come in and

participate as though he is in fact one of the critics. While that was done during the previous administration and it established a precedent, I suggest that it is a bad precedent and one which should not be pursued at this time.

I would be opposed, and I understand that without the unanimous consent of the committee, that unusual procedure cannot be proceeded with.

Mr. Chairman: May I seek the advice of Mr. Renwick here, with his seniority? How is a critic designated, by the caucus or by the party leader?

Mr. Philip: How many portfolios do you want next year, Mr. Renwick?

Mr. Renwick: How is the critic designated?

Mr. Chairman: Yes.

Mr. Renwick: It is usually done in a process of consultation and then by decision of the leader.

Mr. Chairman: The leader. Is there more than one critic to each ministry?

Mr. Renwick: Let me answer it less than directly. What we try to do is have a particular critic be knowledgeable in the various facets of a particular area, even though it may very well overlap more than one ministry. For example, Mr. Philip is responsible for something called housing, not because it is dictated by the particular formal structure of the government, but because in our caucus we wanted one person who was knowledgeable in all aspects of housing, regardless of whether they impinged on one or more ministries.

It happens that there is now a Ministry of Housing and it also happens that very important and significant elements related to housing fall within the jurisdiction of this ministry. Therefore, for us to contribute to an informed discussion of the estimates relating to any aspect of housing, it is much more efficient for us, and I think for the committee as a whole, if my colleague were permitted to deal with those aspects of the housing matter that fall within the ministry.

If the government would restructure its operations so that in some way or other all matters related to housing were in one ministry, we would not, of course, be faced with this problem. But that is not the way the world is shaped. So I hope I have answered your request which I think, indirectly, perhaps supports the position that my colleague, Mr. Swart, has raised.

Mr. Chairman: May I ask a most direct question to which I think the answer is a yes or

no. Has Mr. Philip been designated by your leader as the critic for the Ministry of Commercial and Consumer Relations? Has he so been designated?

Mr. Renwick: I hate to say it, but I think that is a yes or no question. No, he has not been designated as the critic in the Ministry of Consumer and Commercial Relations.

Mr. Chairman: Thank you.

Mr. Swart: I think perhaps I should just say something, that members of our caucus are not designated particularly as a critic per se.

Mr. Chairman: Mr. Swart, if that were not so then neither of you would get any chance to respond to the minister.

The chair rules that the NDP cannot split their critic's role. Choose between yourselves which it is to be.

Mr. Philip: I challenge the chair.

Mr. Chairman: You challenge the chair. That must be dealt with immediately.

Shall the ruling of the chair be sustained? All those in favour please say aye. All those opposed say nay.

Mr. Philip, you are being very confusing here. The chair's ruling is sustained on a five to four vote. Mr. Philip is not—

Mr. Williams: How can he challenge the chair? He is not even a member of the committee.

Mr. Chairman: Good question.

Mr. Williams: Let us get on with the minister's statement, please.

Mr. Swart: Mr. Chairman, I want to raise one other point and I think this will not be controversial. I want to ask you about raising the matter of the Rembrandt Homes, which has been the subject of discussion in at least the last two sittings of the estimates of this committee during the item which is now commercial standards.

I just want agreement on that because you have raised HUDAC and this was a bit before HUDAC, but I think it is perfectly logical to raise it under that. Is there any objection to that? I would think there would not be.

Mr. Williams: Rather than raise it under what?

5:10 p.m.

Mr. Swart: I want to raise it. You could say I

cannot raise it under HUDAC, it cannot be raised there; it does not fit into any place. I just want to make sure that it does.

Mr. Williams: Does it not come under property rights?

Mr. Swart: I do not care where we raise it as long as it comes up. As Mr. Simpson has dealt with this before, time and time again, it seems logical it should come under there and therefore—

Mr. Chairman: You have Mr. Williams saying he believes it comes under property rights and you cannot get much higher authority to proceed than that.

Mr. Philip: The sensible thing is to have the appropriate civil servant here, for God's sake, who can answer the questions. Why do you not do it as simply as you can, so he can have his—

Mr. Williams: Mr. Chairman, is Mr. Philip a member of the committee?

Mr. Chairman: Order, any member can speak.

Mr. Philip:—so he can have his staff here and can answer the questions?

Mr. Williams: He will be here when the item comes up under property rights.

Mr. Chairman: I think that is established. Can we let the minister go on?

Mr. Philip: If I gave you a penny for your thoughts we would have change coming back.

Mr. Chairman: Rembrandt Homes will come up under property rights; is that not satisfactory, Mr. Swart?

Mr. Swart: As long as it comes up. We only have how much time for property rights now, one hour?

Mr. Chairman: Yes.

Mr. Swart: That may not be sufficient. It has taken a lot of time in discussions before. Mr. Simpson is here through the commercial standards sitting. It was discussed under that item before in the last two sittings of the estimates committee. Why can it not be discussed there again?

Mr. Chairman: Commercial standards? The minister advises he believes it comes under commercial standards and we have six hours for that.

Mr. Swart: That is all I am asking. It is what I said in the first place.

Mr. Chairman: Good. So the minister will have the appropriate people here under commercial standards to deal with Rembrandt Homes, correct? Thank you.

Mr. Philip: May I have a point of order, Mr. Chairman? It is normal for the minister to provide to the critics a full portfolio of all information and, as one of the critics, the minister did provide me, incidentally, with a portfolio which kind of negates your earlier decision.

However, since you have decided to come down in a position that is of some assistance to certain people around here, I at least want to ask why it was that the 1980-81 report to the minister by the Residential Tenancy Commission, which I understand has been in his office for some time, was not provided to the critics? If it was provided and somehow I did not receive it or Mr. Swart did not receive it then—

Mr. Chairman: Mr. Philip, would you ask the last two questions again of the minister?

Mr. Philip: The 1980-81 report to the minister by the Residential Tenancy Commission, that is the report with all the interesting statistics in. I have had to base my leadoff statement, which now you have conveniently stopped me from making, on the figures that are—

Mr. Williams: You have the right to make it later.

Mr. Philip: You do not have the right to make speeches except in the leadoff. You do not even know that much about estimates.

Mr. Williams: You do not have the right to lead off. You are not the critic.

Mr. Philip: That was not provided and therefore we could not base our projections on figures that were up to date, and I would like to know why the minister has not provided that to us.

Hon. Mr. Walker: I will search through my mail and see if I have it there and get it to you if I have it there.

Mr. Chairman: Thank you, Mr. Minister. Would you proceed with your opening statement?

Hon. Mr. Walker: Yes, Mr. Chairman.

As you know, I assumed the responsibility for this portfolio just six months ago, in April of this year. During the intervening months I have learned that this must surely be the most complex ministry in the Ontario government. Let me just make a deviation for a moment. You did make some suggestions about allocations of time and Mr. Mitchell did enlarge the public entertainment section.

Do I assume from what is being said that there is some interest in the racetracks aspect, the

theatres branch aspect or the stock exchange aspect? If there is, it will necessitate some arrangements being made and if we could get some feel for time on that, maybe now is an appropriate time to do that before we launch into the general discussions.

Mr. Elston: Perhaps we should just go ahead with the opening statements at this point and maybe we can reach some agreement after hours. I think it would be more useful if we banded about that idea after the committee had sat. I do not think it is crucial to the study in terms of the allocation of the time. I think we should hear the opening statement instead.

Hon. Mr. Walker: There is no problem in that. I am certainly prepared and we might as well designate one person from each party to resolve that matter.

Mr. Philip: It might be a good idea to have a steering committee.

Hon. Mr. Walker: Unlike most ministries, Consumer and Commercial Relations lacks a singularity of focus or even a logical relationship among many of its diverse responsibilities.

Currently, we are responsible for administering some 75 statutes and many thousands of regulations that affect, one way or another, almost every aspect of business and consumer life in Ontario. These legislated responsibilities range from buildings to boxers, from marriage to morality, from unclaimed articles and stuffed articles to securities regulations and various corporate services. The list goes on and on.

It would not be a productive use of your time for me to review all aspects of the ministry's operations and programs in this opening statement, although I am more than willing to discuss any area of responsibilities you may wish to raise later. My opening statement should be something approaching 21 hours. I trust that will not create any difficulty with the committee in terms of general deliberations.

I just wanted to see if everyone was awake.

What I would like to do this afternoon is to talk briefly about my philosophy towards consumer protection and business regulation and how that philosophy relates to the current and future operations of the ministry.

Basically, the challenge facing this ministry is to balance the interests of business and consumers so that each is able to perform without undue government meddling or unfair distortions of a free marketplace. I might as well state from the beginning that I do not accept that consumer and business interests are necessarily

always in conflict. Indeed, often they are striving for a similar goal of fairness and freedom from different perspectives.

Neither do I accept that there is a precise business view or a precise consumer view on every contentious issue. The constituencies with which this ministry must deal are diverse. Within each so-called constituency there is not always a united view. Consumers, for example, are not a homogeneous group that speaks with one voice. As I will explain later, there are many consumers who want increased government action on their behalf and there are many consumers who would prefer less government interference in the marketplace.

The goal of this ministry, therefore, is to respond to legitimate claims of injustice where businesses, consumers or other interest groups are being treated unfairly by forces beyond their control and influence.

There are two related thrusts to our operating philosophy. One is to get government out of the hair of business by, for example, returning responsibility to the private sector for many regulated activities, particularly activities it can handle more effectively than government without compromising the consumer interest. The other thrust is to encourage the consumer to be more vigilant and self-reliant in purchasing goods and services. Let me first deal with the business side of the equation.

During the past year, the ministry has made further progress in improving the efficiency of its services to the private sector. We have introduced a new system for handling writs of execution in the Toronto land titles office. We have extended business hours at our Toronto land titles office and at Brampton, Newmarket and Whitby registry offices on predictably busy days.

Our pilot project to decentralize our corporation services by providing over-the-counter processing of incorporation and amending documents at the London land registry office proved so successful that we have now set the procedure in place on a permanent basis. It now takes about 15 minutes in London to have an incorporation done over the counter. Decentralization is planned by expanding over-the-counter services to Thunder Bay, Sudbury and Ottawa.

We are introducing one-stop search facilities for corporate and partnership registrations by putting on microfilm every registration within the previous 11 years. Microfilm will be retained for six years.

We are also making available for public searches microfilm copies of the public files of the Ontario Securities Commission. This, too, will provide one-stop shopping for customers wishing to obtain information on corporations and certain corporate transactions. These are just a few examples of efficiencies by the ministry to enhance the efficacy of its services.
5:20 p.m.

A second aspect of our relationship with the private sector is to encourage business to assume more responsibility for self-regulation where this can be done more efficiently than government without jeopardizing consumer needs.

We have made impressive progress on this self-regulation thrust. Four years ago, we resolved with the Housing and Urban Development Association of Canada the establishment of a new home warranty plan that continues to work well. Six years ago the travel industry worked with us in setting up a compensation fund to protect the vacationer from loss of his holiday if a travel agency suddenly closed its doors. Late last year, legislation was introduced to enable insurance brokers to found their own regulatory body to license, control and discipline the industry's members.

I intend to carry on this self-regulatory approach where it makes sense for industry and the consumer. But I can assure you that where it does not make sense, where I am not satisfied that a specific industry sector is yet able to control its own behaviour in the public interest, I will not hesitate to intervene.

A case in point is the mortgage brokerage business. Last May, after I had been in the job for only a few weeks, I decided to clarify my position on self-regulation with the Ontario Mortgage Brokers Association. I told them I was concerned about the vulnerability of the unsuspecting investor, and by the unsuspecting I mean the unsophisticated elderly couple who has cashed in a life's savings by selling the family home or business or farm and suddenly has a great deal of money to invest.

I told them I expected the investment market to operate on a basis of full and proper disclosure so the investor can make a knowing investment decision. I told them of their responsibilities to ensure that the investor has all the financial and factual information pertaining to an investment. I told them that I expect all investment advice to be given at arm's length.

I told them I was not satisfied that the mortgage brokerage business was being regu-

lated as tightly as possible to prevent the unscrupulous and dubious from functioning as brokers. While it is impossible to legislate fraud out of existence, I made it quite clear that we would continue to apply vigorous auditing and inspection to improve the prospect of catching and prosecuting the criminally inclined.

I am pleased that the Ontario Mortgage Brokers Association returned recently with some positive proposals that can form the basis of a constructive dialogue and solution. The association has accepted it must institute more disclosure to investors, more detailed accounting standards and an apprenticeship system to enhance the professionalism of brokers. This, then, is an example that stands as an exception to our self-regulatory thrust.

While I am always reluctant to meddle in a free-market system, I cannot and will not walk away from my responsibility to ensure that the market system couples fairness with freedom. While we cannot prevent premeditated criminality, we can make its practice more difficult and its discovery more likely. While we cannot legislate investor responsibility, we can enable individuals to better understand the consequences of their decisions and live with the results.

A third element on the business side of things is our commitment to the repeal of statutes and regulations that have become obsolete with the passage of time, or no longer serve any worthwhile public purpose, or duplicate protections contained in other legislation.

One of my first actions in this ministry was to initiate a complete review of all statutes and regulations. We have so far identified about a dozen statutes that could be repealed, but before proposing such action I intend to discuss each piece of legislation with as many groups as possible that might be affected. I can assure you that we have no intention of abolishing legislation in any way that impairs consumer protection.

The three thrusts I have mentioned—more efficient services, the trend towards self-regulation by industry, and the scrapping of redundant or unnecessary laws—articulate in practical terms my commitment to getting government out of the hair of business.

As I have stated on previous occasions, I do not believe that every consumer problem should result in more laws or regulations. In fact, I am sympathetic to the notion that, wherever possible, we attempt to resolve potential problems without resorting to the heavy club of legislation.

A case in point is individual item pricing for food products. Now that supermarkets are increasingly using computerized checkouts, it is technically possible to replace individual pricing tabs with a universal product code.

The disappearance of individual item pricing was raised with us by the Consumers' Association of Canada. My ministry discussed the matter with the retail food industry, which voluntarily agreed to maintain a prices-on-policy as consumer reassurance. Since that agreement over a year ago, we have had virtually no complaints.

But, you know, the Ministry of Consumer and Commercial Relations is really a consumer ministry rather than a commercial ministry. Essentially, I believe that we should be encouraging the free-market system to resolve its own problems as much as possible without government interference. If business is prepared to treat consumers fairly and disclose all information pertinent to a purchase or investment, and if the consumer is prepared to accept responsibility for making self-reliant decisions in full knowledge of the facts and consequences of a transaction, then there should be little need for government intercession in what is really a private matter.

The reality is that the free-market system does work and is deserving of our respect. Consumers generally are willing to make responsible choices and they, too, are deserving of our respect.

The problems that arise and demand government response are the exceptions. Where inequities arise, we do act decisively as the consumer's advocate.

In the last fiscal year, for example, this ministry helped consumers recover a record \$2.6 million in compensation from businesses. In fact, during the past three years alone, we have successfully recovered more than \$6.5 million. This underscores the continued commitment of the ministry to helping the Ontario consumer receive a fair deal in the marketplace. The \$2.6 million collected on the consumers' behalf last year represents a 23 per cent increase over the previous year, following ministry mediation in 5,444 cases, which included false, misleading or deceptive business dealings.

Examples of successful consumer compensation cases last year include:

1. Four thousand dollars returned by a man acting as a mortgage broker who charged \$4,800 to arrange a \$48,000 mortgage.

2. The owner of a furniture store returned \$3,900 to 12 customers who failed to receive furniture they ordered.

3. A pizza store owner returned \$2,800 to people who had bought travel services from him.

4. Deposits of \$500 and \$1,000 were returned by a pool installer after the ministry investigated complaints of false advertising.

5. A consumer received \$439 from a car dealer after the ministry's investigation revealed the dealer was not honouring the car's warranty.

My ministry will remain an aggressive advocate of consumers who fall victim to unethical dealings. We have established a reputation as an unrelenting crusader against those who falsely believe they can profit as predators of the gullible, the weak and the unsuspecting.

I stress, however, that unscrupulous transactions are a small fraction of all commercial activities and should not be construed as an indictment of responsible consumer relations practised by the vast majority of business enterprises. Responsible businesses are just as keen as we are to rid this province of the fly-by-nights, con artists and the unethical.

But what does the consumer expect of us? Recently, we conducted a survey to help measure public attitudes and anticipations. The survey of consumer issues, which cost \$38,150 to produce, should be available to you in the next few days. This is the survey that we do every two years on consumer attitudes.

I can tell you that not all the findings in our study are favourable towards government, which is fair enough. The honesty of the public's opinions will assist us in refining our programs and policies to keep them in tune with consumer needs.

The attitudinal survey, for instance, shows that governments continue to be seen as favouring business more than consumers, although this is quite contrary to the emphasis of our approach. But we also find that Ontarians believe many existing laws and regulations are increasing the cost of goods and services. Significantly too, they realize that many problems arise from the consumer's own carelessness as much as any other factor.

5:30 p.m.

The most critical anxiety that consumers identify as adversely affecting their lives is inflation. It has been the number one issue for many years. It ranks in the public mind as a worry that far exceeds other important con-

cerns such as energy, unemployment, education, government spending, even the environment.

Inflation is, of course, an issue that concerns all of us and warrants much stronger action by our federal government, which possesses the full arsenal of fiscal and monetary tools to have a tempering influence. Today's typical consumer is worried, on the cost side, by the high price of many other products: the cost of accommodation, the cost of borrowing money and the cost of personal services or household goods.

On the quality side, consumers are worried about what they really get for their money's worth. The problems they identify are: the poor quality of many products, the failure of many companies to live up to claims made in their advertising, the poor quality of after-sales service and repairs, and misleading and confusing labelling.

Quite clearly, there are occasions when this ministry can respond on some of these matters for the consumer's benefit. But perhaps most important, consumers owe it to themselves to shop wisely. Two effective techniques are comparison shopping and the use of grocery lists. Yet our surveys show that only one out of two shoppers in Ontario bothers to do either on a regular basis. By shopping wisely, by budgeting properly, consumers can avoid paying higher prices for many essential goods. That is what self-reliance is all about. That is the consumer ethic we intend to promote.

The Ministry of Consumer and Commercial Relations is committed to helping Ontario consumers receive a fair deal in the marketplace. That has always been, and continues to be, our goal.

During the decade the ministry has existed, we have taken many bold actions to strengthen consumer protection. Our Consumer Protection Act and Business Practices Act are models of progressive legislation. They enshrine for the consumer many basic rights as do various other statutes.

Our business practices division is an aggressive advocate of consumers. As mentioned earlier, in the last fiscal year that division successfully helped consumers recover more than \$2.5 million from businesses. The division's investigators have also successfully intervened on behalf of consumers who were the victims of such unsavoury practices as odometer rollbacks and unnecessary repairs. They have helped

people embroiled in problems arising from all sorts of transactions, from dance lessons to household moving to buying meat.

The new home warranty program has paid out \$10.2 million in direct claims for deposits returned and repairs. This does not include the value of work builders have done on their own because of the program's intervention. This \$10.2 million has assisted some 4,000 families with housing problems. The program has also done some 13,000 conciliations, almost all of which have resulted in some remedial work being ordered.

Ontario's program is the second largest individual program in the world, exceeded only by that of the United Kingdom. There are only two other mandatory programs in the world: in the state of Victoria in Australia and the state of New Jersey. The Ontario program has 50 per cent of all the enrolments in warranty programs in Canada, but has paid 80 per cent of all claims in Canada. It simply proves the axiom that bad builders do not join voluntary warranty programs.

The ministry also works closely with several industries which share our desire to ensure that customers receive services for which they have paid. A good example is the travel industry. Last year, the travel industry compensation fund paid out \$292,046 to consumers who might otherwise have lost their vacations because of the collapse of certain travel agencies and wholesalers. The figures for this year will be much higher. By October 1, the fund had paid out \$1,125,000. Many more consumers were helped in these situations by the promptness of the industry in providing alternative services.

Our ministry has also a long-established reputation as an effective intermediary for consumers encountering difficulties. Last year, we processed more than 100,000 consumer inquiries and 20,000 consumer complaints. Most people simply wanted guidance on where to go for assistance. In fact, more than 70 per cent of the contacts with the ministry were requests for information, not intervention.

I could cite many examples of how this ministry works for the consumer, and I can state emphatically that the Ministry of Consumer and Commercial Relations remains the best friend of unsuspecting consumers who get a raw deal from those who are unscrupulous or prey on others.

Our emphasis on encouraging self-reliance among consumers is in keeping with the expectations of Ontarians. Indeed, it is shared by the

federal government. I note that in its annual report, the federal Department of Consumer and Corporate Affairs states the objective of its consumer services branch as, "making every effort to direct consumers towards the most appropriate source of assistance, rather than becoming directly involved in disputes." That is an important realization by an interventionist government.

I stress again the role of government is not to meddle in every transaction between sellers and buyers; neither should government be the first and only source of assistance. Consumers should be encouraged to seek satisfaction as often as possible directly from manufacturers and retailers, the vast majority of whom accept that good consumer relations are good business. There are also other organizations, such as the Consumers' Association of Canada, and the Better Business Bureau, which effectively articulate consumer concerns.

We are receiving clear signals from the public that getting a fair deal in the marketplace rests increasingly with consumers themselves and institutions outside government. We intend to support this enlightened attitude of consumer self-reliance by intensifying our programs that provide information and education.

A jarring fact underscoring the necessity of this approach is that an astonishing 60 per cent of Ontarians could not name, in a recent survey, one single consumer protection law. Obviously we do not need more laws and regulations, but rather a greater willingness and effort by consumers to understand and utilize the rights they already have.

With this in mind, my ministry is taking several and further actions to make consumers aware of their rights protection.

1. We are striving to simplify the legal forms that consumers deal with and may have difficulty understanding. An example is our collaboration with the new home warranty program to create a simplified mortgage clause for offers to purchase.

Mr. Chairman: Mr. Minister, looking at your statement, it seems to be a good—

Hon. Mr. Walker: Three hours left.

Mr. Chairman: No, but there seems to be a bit of a natural break there and we are supposed to break at 5:40 for private members' votes. So may we adjourn until tomorrow morning following routine proceedings?

Mr. Philip: Are there copies of the speech?

Mr. Swart: Mr. Chairman, we asked for the speech at the last sitting, but it was not sent to us. It was given to the press, granted inadvertently; in good faith, I would say. But surely when you gave it to the press it should have come to us, especially when we asked for it. What possible excuse can there be for that?

5:40 p.m.

Hon. Mr. Walker: I knew that you did not want to hear me because it took over a week to get to me from the time that you asked for it.

Mr. Swart: Let us have a reasonable answer.

Hon. Mr. Walker: I thought that was very reasonable.

Mr. Mitchell: It would be fair to say that some of us are looking at the statement which was prepared some time ago, and I really do not feel that the minister has any objections, if I can interpret him, for the statement to be provided.

Mr. Swart: What do you mean, the statement some time ago?

Mr. Mitchell: There was one prepared earlier, as you mentioned.

Mr. Swart: Do you mean the one given to the press?

Mr. Chairman: No. Maybe Mr. Swart is saying he has never received any statement.

Mr. Swart: No.

Mr. Mitchell: Oh, I am sorry. Perhaps I am misunderstanding it.

Mr. Philip: Can we have an extra copy of the statement?

Mr. Swart: It was not sent out to any of the—

Mr. Chairman: I had one, or had seen one, but I do not have it now. I do not know where it has gone to.

Mr. Swart: I got one from the press. Surely we did not have to go to the press to get one; we asked for them.

Hon. Mr. Walker: I have been sitting here watching you mouth all my words. You are reading along with me. I could not figure how you had it.

Mr. Swart: I was not even looking at it. I know it off by heart. It is such a painful document.

Hon. Mr. Walker: When do we reconvene?

Mr. Chairman: Tomorrow morning following routine proceedings.

Hon. Mr. Walker: Is there a likelihood we will go on?

Mr. Chairman: No way.

Hon. Mr. Walker: I am awfully nervous these days about planning my schedule.

Mr. Chairman: You have the floor. No, you are not a member of the committee. You do not have the floor.

The committee adjourned at 5:43 p.m.

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Ontario, LEGISLATIVE ASSEMBLY

No. J-9

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations



First Session, Thirty-Second Parliament

Friday, October 23, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, October 23, 1981

The committee met at 11:37 a.m. in committee room No. 1.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: I call the meeting to order. We have two matters on the agenda.

First, a photostat of a letter which I received from the leader of the third party, and my reply. I received it last night about 10:30 as the House closed. My reply is at the bottom in a slightly different writing, actually asking for clarification. Then in the upper right-hand corner, the reply back to me. I have received it.

In my wisdom or otherwise, I have decided to circulate it and not reconsider my ruling, the chair's ruling, which was sustained yesterday. That ends that matter so far as the chair is concerned.

The second matter we have in front of us is that the minister is not here, and will not be here until 12 noon. He has an important matter. We can continue with Mr. Mitchell in the chair as the parliamentary assistant, or otherwise. Mr. Mitchell will speak to that.

Mr. Mitchell: Mr. Chairman, it is unfortunate, but I would like to assure the members of the committee that a very urgent message called the minister away this morning. It is one that he, unfortunately, cannot avoid.

If it is the committee's wish, I am prepared to continue with the minister's statement and with his presentation. If that is not acceptable to the committee, however, I have two other options I would propose. I will leave it to the committee's discretion.

Mr. Swart: My understanding is, if I may have the floor, that what you will do is read the remainder of his statement, and that is all. I have no objection to that procedure, Mr. Chairman. May I have a copy of his statement?

Mr. Mitchell: We will provide you with copies of the statement, if you wish me to proceed, Mr. Swart.

Mr. Elston: From this position as well, Mr. Chairman, I think that the reading of the statement could just as well be done by a

parliamentary assistant, and that we should be getting on with the estimates.

Mr. Philip: I am in agreement with that. But on a point of order, Mr. Chairman, it comes to me with a certain amount of distress that you are not a man of your word. In fact, you misled me yesterday.

You told us, and told me specifically, that if we had a statement, Mr. Swart and I, who are both critics of the Ministry of Consumer and Commercial Relations, could share the leadoff statement. You have now decided to break your word. You are acting in a completely partisan way on behalf of the Conservative Party and not acting in a nonpartisan manner, which is becoming of your chair.

I would like, simply, to voice my displeasure, and I will be taking this up with the procedural affairs committee and reporting your actions to them.

Mr. Chairman: Thank you.

First, I take great umbrage and exception to your comments. I do not know what you just said. You are totally wrong, totally in error. You must be Alice in Wonderland part of the time, Mr. Philip.

My comments to you were, after this meeting was over, that it does not matter a hoot to me whether you are one or five or 100 critics, so long as it is the same time limit.

11:40 a.m.

I could not care less—I personally, in my capacity as the member for Oxford—but the chair made a ruling, the ruling was attacked and the chair's ruling was sustained. So I am not going back on my word in any manner or means.

Mr. Philip: It seems that what you say on the record is different to what you say in private. Obviously, you cannot be relied upon to tell the truth in private.

Mr. Williams: I would ask that the member withdraw that remark, Mr. Chairman. It is unparliamentary. I would ask that he withdraw his statement that you have uttered an untruth.

Mr. Chairman: Mr. Philip simply uses poor discretion at times.

Mr. Philip: The only poor discretion that is

used is the very partisan way in which you chair this committee.

Mr. Williams: I would ask that he withdraw the statement that you have uttered an untruth. I would ask that he withdraw the remark, Mr. Chairman.

Interjections.

Mr. Philip: It is bad enough that in the past we have had Tory hacks as chairmen of committees, but I at least thought you would rise above that. You obviously have not.

Mr. Williams: Mr. Chairman, Mr. Philip can be as offensive as he wants in his remarks, other than to impugn the integrity of a member of the committee, and say that you had committed an untruth. I ask that he withdraw that remark.

Mr. Chairman: Fine. Mr. Philip, Mr. Williams has requested that you withdraw your remark. Do you do so?

Mr. Philip: Not on Mr. Williams' request, I do not. You as chairman can order that it be withdrawn if you wish.

Mr. Chairman: No, I do not believe that I have the capacity to order its withdrawal.

Interjections.

Mr. Williams: Mr. Chairman, I would ask that you have the member withdraw the remark made with regard to yourself, as to having purportedly stated an untruth, as being unparliamentary.

Mr. Chairman: Then I do find it out of order, and direct that it be withdrawn.

Mr. Philip: Mr. Chairman, out of respect for the chair, although not out of respect for you personally, I withdraw the remark.

Mr. Chairman: Thank you, Mr. Philip.

Mr. Philip, I might state that, in doing things in this manner, you would force me to simply refuse to speak to you on any question, whether it is on the birds in the trees or the leaves outside. If you, in an offhanded way, wish to vaguely discuss what has gone on, then you will force me to treat you as if we are on camera all the time. It seems that the administration of justice committee will not be served by bringing it to such a technical level.

Mr. Philip: Your partisanship has not served the justice committee either, Mr. Chairman. If that is how you want it, fine. Since obviously what you say in private cannot be relied on, I guess maybe we should only speak to each other on camera.

Mr. Chairman: I made a ruling and I gave the reason for the ruling. I asked Mr. Renwick, who was the senior member of your party in the room at that point—I did not even ask Mr. Williams, who is the senior member of the PCs; I asked your own member—"Has Mr. Philip been appointed by the NDP as a critic of the Ministry of Consumer and Commercial Relations, yes or no?"

Mr. Renwick grinned and said, "Yes, I guess that question forces a yes or no answer, and the answer is no." Upon Mr. Renwick's advice, I made my ruling, "No." That has nothing to do with whether Mr. Treleaven wants to see you as a critic or 16 others as critics.

Mr. Philip: You then informed me that, were you to receive a note from the leader of our party indicating that I in fact was a critic, that you would reconsider your decision. You got that note—

Mr. Chairman: Mr. Philip, I recall nothing of the sort and nothing that even resembles that.

Mr. Philip: You have very poor recall then.

Mr. Chairman: Yes, I must have. I recall nothing in that way.

Thank you, shall we proceed with the statement, Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, if I may, before I begin I will point out that I will be delivering the comments as if the minister were delivering them. I will not attempt to change any wording. It is to be understood that it is what the minister has been delivering. We are now at the top of page 19 of his statement which you have been given.

With this in mind, my ministry is taking several and further actions to make consumers aware of their rights protection:

We are striving to simplify the legal forms that consumers deal with and may have difficulty understanding. An example is our collaboration with the new home warranty program to create a simplified mortgage clause for offers to purchase.

We are participating in a television series, "You and the Law," which will include segments on credit and car repairs.

French language workshops on consumer rights and responsibilities are being conducted in six communities in Ontario. The workshops will involve consumers, but will also focus on those persons in the community to whom people are likely to turn for help.

This "key persons" theme is also a major aspect of our life skills program for mentally

retarded people. We attempt to pass on consumer skills to those persons who help the retarded.

Our goal is to encourage the consumer through educational programs to accept personal responsibility for his or her purchasing actions. We cannot protect consumers from their own self-inflicted problems such as impulse buying, product abuse, debt addiction or simply buying things they do not need or cannot afford. By providing consumers with information on their rights and responsibilities, by encouraging good budgeting and shopping habits, we hope the consumer can be better equipped to make wise purchasing decisions.

We will, of course, continue to be vigilant as a government in identifying and dealing with incidents of consumer abuse. Government can and should help the consumer who is the victim of an unfair business practice. Our preference though in finding a solution is to oblige the business offender to compensate the consumer victim.

We believe the free-market system is generally a far more effective mechanism for delivering consumer satisfaction than government intervention and control. We believe that most businesses are sensitive to their consumer responsibilities. In fact, I suggest that large manufacturers and retailers not only know more about the consumerism than governments, but are also willing to correct abuse of the unsuspecting consumer when a situation is brought to their attention.

Our objective is to help facilitate fair dealings in the free-market system where self-responsibility and self-reliance are given a chance to express themselves. This will enable us to direct our own resources more effectively to taking action against those organizations which do deliberately abuse the consumer or which fail to correct their mistakes when they are discovered.

I would like to share with you now two examples of my ministry's work in educating consumers to self-reliance. Both examples are films in "The Law and You" consumer series. They deal with two areas of most frequent consumer complaints—buying a car and buying a house.

I might point out that both films were co-produced with CHCH-TV in Hamilton and the Law Society of Upper Canada. The total out-of-pocket cost to the ministry was only \$12,000 per film. Both channel 11 and the law society most generously donated their services

to these very worthwhile projects. To date, the films have been aired by CHCH and 11 affiliated stations at no charge.

Now with the committee's indulgence we would like to show you these films. Both are approximately a half hour, however, we will start off and show five minutes of each, and if it is your wish, we will continue with the presentation. I stand at the committee's direction. However if we will, we will proceed at least with a few moments of each.

The committee viewed an audio-visual presentation from 11:49 a.m. to 12:18 p.m.

On resumption:

Mr. Bradley: Just to break into your comments for a moment—a couple of informational items might be very appropriate right now on the record, and that is the distribution of this and the availability of this.

Mr. Mitchell: May I introduce Sharon Paul? Perhaps, Sharon, you would tell them the distribution of it.

Mr. Williams: Other than having it shown on other stations and CHCH?

Interjection: Yes.

Mrs. Paul: First of all, it has been shown on CHCH Hamilton twice and it is now going through a second series of 11 other stations. We have also completed arrangements with TVOntario to put it in their distribution lists and cataloguing system so it will be available through all of the schools, free.

It is available to our own people, regional officers and so forth, when they go out and speak in the communities so that they can show people. It is available for use in the schools; it is available through our consumer information centre to teachers and others if they want to show it.

For instance, on the film on buying a car, we are particularly concerned about young people who are buying a car for the first time and do not know enough to check for liens. That is a particular concern we have. We are making it as widely available as possible.

We are just now doing two more in that series, one on credit and one on car repairs, because they are the greatest areas of concern we are identifying now. We are making it as widely available as possible.

Mr. Philip: I found the first one, in which I thought the acting was a little bit better, particularly interesting, but the content of the second one I am sure is quite valid.

12:20 p.m.

Are the tapes available for MPPs who may be doing cable shows and want to use them, or parts of them, to illustrate some information for their constituents?

Mrs. Paul: Absolutely. We have negotiated the rights for this for five years, so if anyone wants to contact me, I could make sure. We have only a few master copies, so they may have to book them and schedule them very carefully.

Mr. Philip: It would be very useful if we could have copies of the scripts.

Mrs. Paul: Oh, certainly.

Mr. Philip: In that way we can see what sections we might want to use, for example, in a cable show. How many programs are there?

Mrs. Paul: The series is one we developed corporately for all the ministries. There are two 13-week series, so there will be 26 separate topics. One from the Attorney General, for instance, is on child abuse, and that kind of thing—the Family Law Reform Act. So they are not all in the consumer area.

We have four of the 26. If you like, Mr. Philip, I could send you a list of all of the topics that have been covered, and make sure you get any which you are aware of. We have only the ones we have done in our ministry, but I can get the others.

Mr. Philip: Then we could obtain the scripts, if we so desired?

Mrs. Paul: Yes.

Mr. Philip: Because it would be foolish to send out copies of scripts to everyone. Some might be useful and others not.

Mr. Swart: There might be some value in sending out the lists of the titles to all the MPPs.

Mrs. Paul: I would be happy to do that.

Mr. Williams: Just on that point, I presume there are certain restrictions about editing the film for use without permission by the—

Mrs. Paul: There may be some ACTRA implications which I will check first.

Mr. Williams: It could be edited for putting certain slants on the subject that might not be consistent with the main thrust and direction of the film.

Mr. Mitchell: No. The comment raised is a valid one. If, in fact, the film was to be provided, it would have to be a total package, the film as provided.

Mr. Philip: I do not think that was indicated and we would like the answer to that question.

Mrs. Paul: I will get you the answer. It varies according to the contract. On occasion, there are ACTRA implications which preclude editing. I am sorry, I do not know that at the moment, but I will get it for you.

Mr. Mitchell: May I jump in here? Mr. Philip, I recognize the area you are interested in and I would like to be able to give you as full a response as is possible, if I may respond to you later on just how the film could be used, and so on.

Mr. Philip: The only kind of editing I would find useful would be just to shorten it, because if you are dealing with a half-hour cable program, you cannot use it.

Mrs. Paul: Not on a half-hour show.

Mr. Mitchell: No. I can accept that, but Sharon has pointed out where there might be some problem areas, and if you will allow me, we will get a response to the query raised and we will make it available to the members of the committee.

Mr. Philip: That would be very helpful. Thank you.

Mr. Bradley: Is this a half hour or is it 24 minutes?

Mrs. Paul: I have not timed this one, but I believe it was 27.5 minutes.

Mr. Philip: I have a couple of other questions. Do you find that after you have shown these films you get more telephone calls at the ministry? How do you measure the viewing response?

Mrs. Paul: It was very interesting in the week following the first one, the buying of a car. The way we measured response to that, as opposed to measuring response for any other form of advertising or whatever, was to display a special box number to which only those people who had watched that show could write.

In the first week we had 300 requests for the Buying a Car pamphlet we send out, which is a pretty substantial number of requests for information. Some of the letters were asking for a legal opinion. We arranged with the Law Society of Upper Canada to provide a free legal opinion on any of the shows in the series. If it requires a lengthy legal discussion, there is a special rate that the law society has set up with lawyers throughout Ontario to handle that kind of question and concern.

Mr. Philip: How many complaints would there be in a period of a year from people who feel that they have been ripped off in buying used cars?

Mrs. Paul: Seventeen per cent of the complaints to the ministry were in the area of car repairs, and that was the number one complaint area in the ministry. Home repair service and that kind of thing was second at about 14 per cent.

Mr. Bradley: May I ask one quick question? This kind of flexibility is, I think, what members are looking for because we have the person right here. Do not become offended. But does the minister's name appear at the beginning or at the end of this?

Mr. Mitchell: I have watched and frankly I do not ever recall seeing it. If I remember, it merely says that the program was produced through the co-operation of whatever ministry.

Mr. Swart: It would not be the case six months before an election.

Mrs. Paul: The ministry and the law society.

Mr. Bradley: The law society.

Mrs. Paul: No, the minister's name is not even on any of the booklets that accompany the series.

Mr. Bradley: Ultimately, we are always suspicious in the opposition. You know that.

Interjections.

Mr. Bradley: No, I did not see the whole thing before.

Mr. Williams: We edited it so it would not be in this showing.

Mr. Philip: I thought the fellow showing the used car looked an awful lot like the minister.

Mr. Mitchell: Mr. Chairman, I think this is an appropriate time to get back into the statement.

Mr. Bradley: That is good, Mr. Chairman, because I think we would like to see informational films but we do not like to see promotions of the government.

Mr. Chairman: I think that fits the role.

Mr. Mitchell: If I may then, Mr. Chairman, I will proceed with the minister's statement:

Perhaps I could conclude this opening statement by commenting briefly on three other areas where I am sure you will have questions: One deals with rent review; the second relates to film censorship and film classification; and the third deals with the government's position on federal competition policy proposals.

As both the Premier (Mr. Davis) and I have stated, we are not planning to abolish rent review now, next year, or in the immediate future. In fact, the Premier has made it quite clear that rent review will remain until at least

1985. We fully appreciate that a premature termination of rent review could precipitate sharp and sudden rent increases, causing severe financial difficulties for many tenants. We do not intend to let that happen.

The real problem in the rental market affecting the cost of accommodation is the lack of reasonable supply. Some form of rent review will remain, therefore, until there is a substantial increase in available apartment units in those communities which are experiencing critical shortages. I can assure you that I am fully familiar with the position of tenant organizations on rent review.

I also wish to advise you that my colleague, the Minister of Housing and Municipal Affairs (Mr. Bennett), and I are planning to meet with leaders of the development industry to determine what can be done to resolve the critical apartment shortage for the benefit of tenants.

We have received many complaints from tenants about the unfairness of the present six per cent interest paid by landlords on moneys deposited with them as advance payment of the last month's rent. I have discussed this matter with my colleague, the Attorney General (Mr. McMurtry). Our hope is to set a more realistic rate for each calendar year. While it is impossible to set in advance an exact rate reflective to a coming year's money market conditions, it should be possible to provide a more realistic estimate. For example, a 15 per cent interest rate on tenant deposits for 1982 would seem to be more in step with market outlooks than the current six per cent.

Second, as I announced earlier this year, we have modernized the film classification system for Ontario. You will recall that for many years films were classified as restricted, adult or general. A problem with this system was that it prohibited teenagers from seeing important films that were restricted for various reasons to viewers of age 18 or older. Teenagers today are in many ways more mature than in previous decades. They know what is going on and they can handle it. It no longer made sense to prohibit them from seeing significant films just because of a few swear words, or sex scenes, or dramatic violence.

The new film classification system I announced this summer has overcome this problem. The "restricted" category remains, with admittance limited to adults aged 18 or over. A new category called "adult accompaniment" has been introduced and permits people aged 14 or

over unsupervised entry. Significantly, children under 14 can be admitted if accompanied by an adult.

The general film category has been divided into two subcategories, one designated "family," the other "parental guidance." The latter alerts parents to the fact that certain language or scenes might be offensive to their children. It shifts moral responsibility on to the parents in deciding what they wish their children to see.

12:30 p.m.

The creation of the adult accompaniment classification is an important development. For one thing, it has enabled the theatres branch in my ministry to designate many more films as adult accompaniment, rather than restricted. For another thing, parents can take their children under 14 to these movies if they wish. Again, it shifts moral responsibility where it belongs—on to parents.

Another concern I faced when I accepted this portfolio was that decisions about classification and censorship were being made by a board, all of whom were civil servants. I was uncomfortable with the idea that civil servants were responsible for reflecting community standards. It seemed to me, that if we were to have a film censorship board at all, it should at least consist of people from the community who could more accurately reflect prevailing standards of acceptability.

Appointments are now being made to a new Board of Censors that will have a minimum part-time membership of 25 people. These people will be selected to reflect Ontario's ethnic, cultural, social and occupational character. We anticipate that they will be very adept at interpreting contemporary and changing community values than its predecessor board.

What is acceptable today? We have asked the people of Ontario that very question. Most are prepared to accept scenes of nudity, but not explicit sexual intercourse or sex between two women or two men, or vividly portrayed violence. Nearly half of Ontarians object to vulgar or profane language and 91 per cent would censor any sexual exploitation of children. How, though, do we translate these attitudes and expectations into policy?

Every film is viewed on its own merits. General guidelines exist to help determine community acceptability. Normally, but not always, the distributor is asked to eliminate scenes which explicitly portray sexual activity, sexually exploit children, have prolonged scenes of violence, torture and bloodletting, ill treat animals and unduly emphasize genitalia.

Finally, I would like to comment on the position adopted by the Ontario government towards the federal proposals for a new competition policy.

As I advised the Minister of Consumer and Corporate Affairs at a recent federal-provincial conference in Quebec City, Ontario is opposed to substantial change in current combines legislation. In our view, the federal government's proposals would inhibit the ability of Canadian business to compete in world markets. This, in turn, would penalize the consumers and workers of Canada.

The federal government appears to be obsessed with the size of individual enterprises. It has concocted an arbitrary threshold concept to measure whether a company is too big for the public good, but we fail to understand how a numerical computation of market share as being dominant or monopolistic can conclude that a company is acting, or is likely to act, against the public interest.

Consumers are not concerned about the size of companies. They are more interested in whether the company is efficient, and thus able to share the cost benefits of scale with customers. They are more interested, as well, in the business practices of a company, how it performs and behaves, irrespective of size.

Another major concern is that the suggested federal proposals could prohibit such beneficial and normal business practices as bargain pricing, discount brands and no-name products.

We see many difficulties with the federal competition policy proposals, which I would be glad to discuss with you in more detail, but I feel it is important for me to note, as Ontario's consumer minister, that the proposals, as currently drafted, are detrimental to both the business and consumer interests of Ontarians.

I hope these comments have been useful in giving you an indication of my philosophy and how it dovetails with the ministry's track record of success as well as the changing expectations of the public.

I do not underestimate the difficulties we face in dealing with a wide spectrum of sometimes controversial issues, and I assure you that I am most receptive to your constructive proposals that can improve the capacity of the ministry to deal sensitively and decisively with the legitimate needs of both business and consumers if those needs cannot be satisfied in a free market system.

Mr. Chairman: Thank you, Mr. Mitchell.

Now Mr. Bradley, could you carry on or start? The minister is with us now at an appropriate time.

Mr. Minister, we are just at the point where the opening statement is just completed and Mr. Bradley was preparing to commence his opening statement.

Mr. Bradley: The first thing I would ask, Mr. Chairman, is that in our guideline for opening statements how much time would be left in that particular guideline, so that I can fairly apportion my time with the NDP?

Mr. Chairman: Yes, we started this morning at 11:45, so that is 50 minutes this morning. The clerk informs me that 73 minutes have been used on the minister's opening statement. It therefore means, Mr. Clerk, does it not, that we therefore lost an additional hour in nonministerial statements yesterday? So 73 minutes on the ministerial statement.

Mr. Bradley: What time is left on our general allocation then? What is the total amount of time we have eaten up so far? Let us put it that way.

Mr. Chairman: It was 23 hours and 45 minutes minus almost dead-on the hour today. It is almost 22 hours and 45 minutes within two or three minutes, okay?

Mr. Bradley: Okay. I just want to try to fairly apportion my time with the NDP critic in this area.

First of all, thank you very much, Mr. Chairman, for the opportunity to take advantage of the time we have allocated for opening statements. I will have to modify mine just slightly, as I was informing the member for Carleton East (Mr. MacQuarrie), because I was going to be more critical of my colleagues on the government side in the beginning of my remarks. I was pleased to see some signs of co-operation last day in the allocation of time, for instance. So we will have to take that advisedly.

It is a pleasure for me to participate in this, my first set of estimates as far as the Ministry of Consumer and Commercial Relations is concerned, although I have been the critic of the present minister in the field of correctional services in the past. I do not know whether this is a demotion or not, but certainly we have additional responsibilities over what would be considered the Ministry of Correctional Services.

I am very pleased that we have 25 hours of committee time to have the inner workings of this ministry explained, although given the

breadth of its jurisdiction, I must admit that 25 hours still remains too short a time, as I suppose we could say with many ministries.

I hope the minister will be more co-operative with the opposition than his Tory brethren on this committee before yesterday, who have managed over the last four days, in what has become their own predictable and inimitable manner, to block all opposition attempts to have this justice committee examine the role of this ministry in the collapses of Astra/Re-Mor, Co-operative Health Services and Argosy. I only trust that the minister will be more helpful in his answers to us.

I said as a preamble that we must take that advisedly, because there has been a slight change. I must admit that the minister's opening statement has been a severe disappointment. It is full of empty homilies that we need to deregulate, that we need to let the free market run its course, that we need to have consumers learn how to protect their own interests. It would appear that the ministry's slogan will soon become, "You are your own consumer protection bureau."

What is disappointing, and I should say disturbing, is that the minister never says why he wants to take this approach. No doubt, he will later on. There is no real analysis of the nature of our marketplace, the nature of consumer transactions. The minister offers no rationale for the policies he seems to be promoting. It really appears to be blind devotion to an ideology of cutbacks and less government activity without examining the possible impact of such actions on a specific field.

For example, the minister speaks of a self-regulatory approach where, in his words, and I quote: "It makes sense for industry and the consumer." He does not identify what his criterion is for determining when it makes sense. He offers as his exception to this self-regulation kick, the field of mortgage brokers.

12:40 p.m.

But this exception is not based on an analysis of the inherent nature of a mortgage broker's business. We all know that the minister would not dare speak of deregulation in the mortgage brokers' area after Re-Mor. If Re-Mor had not collapsed some 18 months ago, the minister would probably be wanting to deregulate this area as well and he would do this without an examination of the impact. What scares me with such an approach, and I think scares many of my colleagues, is that he would not know if there is a Re-Mor lurking somewhere.

The minister talks about a complete review of all statutes and regulations under the purview of his ministry. He mentions that he has identified about a dozen statutes which could be repealed. It does not mention what criteria he uses, neither does he identify which statutes so this committee can at this early stage comment upon his plans.

It is interesting to note how one sided the minister is in his opening comments. He talks of the commitment to service and efficiency. He forgets to announce that the ministry is planning to close its Peterborough consumer services bureau. We would have appreciated it if the minister had mentioned that. He talks of the availability of microfilm copies of the public files at the Ontario Securities Commission, but forgets to mention that, due to budget restraints, the Ontario Services Commission filing room has had to be closed each Tuesday and Thursday to accomplish this service.

He forgets to mention that the Ontario Securities Commission has announced that the time it could take for the provision of comments on preliminary prospectuses has been increased from 10 to 20 working days. This announcement was made, according to the Ontario Securities Commission, "regretfully, due to the current work load of the commission and a limited staff."

The minister has provided an amount which represents how much his ministry has helped consumers recover in compensation from businesses. Nowhere does the minister indicate what amount has been lost by Ontario consumers and investors due to inadequate licensing and monitoring of companies by this same ministry.

I stated at the beginning of my remarks that the minister has not addressed himself to the problems in the marketplace. Let me expand on what I meant.

The minister stresses a buyer-beware attitude. He says it is up to the consumers to look after themselves. He says the ministry cannot police everything, it is not going to protect people from themselves. In a superficial way these simple admonishments have a plausible ring to them. The minister says, "You people out there, you are responsible intelligent adults, surely you do not need big brother watching over you." It is interesting that the minister does not apply this same attitude to the issue of movie censorship.

The problem with applying simple answers to complex questions is that those answers are

usually wrong. I submit to the minister that consumer problems are often of such a nature that a consumer would be very hard pressed to protect his or her interest, not because he or she may be lazy or ignorant but because the nature of our legal system is such that it is often not worth a person's effort to take action to assert a consumer right.

Let us take a simple example. Let us say a typical, intelligent, responsible, adult Ontario consumer went to a store and bought a \$20 toaster—if indeed one can get a toaster for \$20 any more. Upon coming home and unpacking his toaster he finds a note saying, "Neither the vendor nor the manufacturer is responsible for any defects in this appliance after the time of purchase." The consumer will be a bit annoyed, no doubt, but hopes that nothing will go wrong. On the third morning the toast is burned to a crisp and the toaster keels over and dies.

Our responsible, intelligent consumer will likely go to the store and complain to the vendor. What if the vendor simply points out to the consumer that the disclaimer clause which was included with the toaster is his full and proper defence? Our consumer may become resourceful and start checking out what the law says.

After a few hours at the library he may stumble across section 34(2) of the Consumer Protection Act which states, "The implied conditions and warranties applying to the sale of goods by virtue of the Sale of Goods Act apply to goods sold by a consumer sale and any written term or acknowledgement, whether part of the contract sale or not, that purports to negative or vary any of such implied conditions and warranties is void and, if a term of a contract, is severable therefrom, and such term or acknowledgement shall not be evidence of circumstances showing an intent, that any of the implied conditions and warranties are not to apply."

Mr. Minister, do you think our consumer, on reading this section, would start jumping for joy? What if he reread it three or four times, as I would have to, to understand it? For those of you who speak only English, I will translate this section. It means when a consumer buys a good he is guaranteed a minimum level of quality, regardless of any written or oral claims to the contrary.

Let us say our consumer managed to wade through the bafflegab. So he goes back to the vendor and points out to him this section of the act. The vendor responds, "So, sue me."

Our resourceful, responsible consumer would then troop down to his nearest small claims court to be informed that for \$20 he can file a claim and have it served and he can wait several months for a trial date barring, of course, any adjournments. At this point our responsible consumer will probably make a few calculations, considering the cost of the court action and the probable loss of a day's wage to attend at trial, not to mention all the aggravation.

If our consumer is a rational human being he will take the only logical route and drop the whole business, no doubt swearing off toast for the rest of his life. The point of the example is that a rational person, making decisions on the basis of simple economic calculation, will not necessarily pursue a consumer remedy. Similarly, the vendor will not feel obliged to satisfy the consumer because that consumer is one of thousands, only a few of whom will have a complaint, and an even smaller number will actually pursue that complaint.

There was a time when the principle in contract law was the legal maxim, *caveat emptor* and we have certainly heard that before—let the buyer beware. The rule arose in an age when the buyer and seller were on an equal footing. The seller was likely to be a small shop keeper; the transaction, that is the sale of good, included bargaining concerning the price and quality of the good. The buyer was a member of a small community where word of mouth was an important deterrent to bad customer relations. Nowadays, the consumer is in a far weaker position vis-a-vis the seller. There is virtually no ability for the consumer to negotiate, either as to the price or to the quality of the goods being sold.

The fact that the seller is several stages removed from the manufacturer means that the seller is rarely intimately familiar with the peculiarities of the good or the particulars of the manufacturing process that went to producing the good. The nature of advertising and marketing prices is such that little valuable information is relayed to the consumer. With the great diversity of manufacturers and retailers, the consumer stands little chance of becoming better informed and his or her individual protestations will have little impact on the marketplace as a whole.

The other problem with the marketplace is that at the stage of buying a good or service the consumer receives very little information about his or her contractual rights, and such rights of which he or she is informed are non-negotiable.

Standard form sales contracts and warranties are often unintelligible to the average consumer and, even when deciphered, cannot be changed because that is either store policy or because that contract has been adopted industrywide and there is no relief to be had from any seller.

As with our example, what if the sales contract excludes a warranty that is actually guaranteed by law? You are no doubt familiar with a study done under the auspices of your ministry entitled, *A Survey of Consumer Issues among the People of Ontario*, released in August 1978. The survey indicated that 62 per cent of Ontarians could not name a single consumer right guaranteed by law. Only four per cent knew that a consumer sales contract excluding the basic minimum warranties as to the qualities of the good is entirely unenforceable and void. Then, of course, there is the barrier of the legal system with its attendant costs, delay and inconvenience.

During the previous estimates of this ministry my colleague, Jim Breithaupt, proposed some simple solutions to some of these problems. One could begin by trying to make the processes of the marketplace more intelligible. Many vendors use standard form contracts. The government could require that these contracts be written in plain English. The government could make its own legal resources available to help the private sector to effect this sort of reform.

12:50 p.m.

One could make our consumer protection laws more accessible: one, by consolidating our present scattered pieces of consumer protection legislation into one true consumer protection act, and two, by making that legislation intelligible and readable. If this government is at all committed to bringing in plain language statutes, then surely legislation relating to consumer protection must be a priority area.

The ministry should make a far greater effort to publicize the existence of consumer protection laws, and provide a general idea of their content. When one considers some of the silly advertisements placed on television by the government, surely it could afford something more sensible, like informing people of their consumer rights, such as we saw in the cable television tapes today, that I think we were somewhat impressed with.

One could use station breaks on TVOntario, and public service announcements, newspaper ads like those to promulgate the Provincial Offences Act and the new owner-liability and

trespass laws—and I interject here the fact that we in the opposition would be very vigilant as to the political impact those might have.

After the examples we saw, and the minister was not here at the time when it was being shown, the comment from the opposition was that while there may be a subtle message that we perhaps should look for, it was not an apparent government propaganda film. Therefore we thought it was very useful; it was the kind of informational package we are looking for, as opposed to one that says, "The Honourable Gordon Walker, Minister of Consumer and Commercial Relations," at the end.

Hon. Mr. Walker: We shall have to spruce up the identity a bit more.

Mr. Bradley: No doubt if we were closer to an election, that might happen.

Interjection.

Hon. Mr. Walker: I do not know what is happening; I will have to find out.

Mr. Bradley: With regard to the enforceability of these consumer rights, one could extend the applicability of penalties for breaches of specific provisions in consumer protection legislation. For example, in a situation where a vendor has attempted to disclaim the guaranteed warranties provided by Ontario legislation, one could provide that such a clause would attract quasi-criminal liability, as well as the existing civil remedy.

One should try to remove the barriers that presently inhibit consumers from asserting their rights through litigation. For example, one could provide for minimum judgement awards; that is, when a consumer wins an action in court, he or she is entitled to claim the value of the goods or \$75, whichever is greater. Thus, in the case of the \$20 toaster, the consumer might be more inclined to take the vendor to court where a breach of his rights has occurred, because of the extra bonus. By the same token, a vendor will be more watchful of consumers' interests, and may be more willing to settle the consumer's complaint, because otherwise he may have to pay in excess of the value of that toaster.

These are the types of problems to which the Minister of Consumer and Commercial Relations has to address himself. The generalities found in his opening statement really do not advance anyone's understanding of his intentions, or what might be the rationale lurking behind his actions. Instead, we have a minister's pronouncements, "full of sound and fury, signifying nothing." I would ask the minister, during

his reply, to entertain us with something more substantial than he has up to now provided. No doubt the minister will be prepared to do that.

Hon. Mr. Walker: We have a film.

Mr. Bradley: He has another film.

Mr. Williams: Gone with the Wind.

Mr. Bradley: It could be that long.

I should like to make a few comments about the breadth of this ministry and the fact that, as the minister has in a joking way related to and I think in a serious way probably recognizes, as do we in the opposition, this ministry is just too big, too complex, covers too many different fields. It must be difficult for a minister to handle a ministry of this kind because he has to be an expert in many fields.

The controversy we had at the beginning of our session today and yesterday about the New Democratic Party splitting the criticism of this ministry is one example. Because it covers many diverse fields, opposition parties look at it in terms of two different critics covering different areas; perhaps three different critics.

As an example, I look at it from my own point of view. The previous Liberal critic was Jim Breithaupt, who, I think it can be conceded, is somewhat of an expert in the commercial end of the ministry, in corporate law—particularly having been the chairman of the company law committee—and therefore has a certain expertise in that field, as a layman. Also the chairman, I understand, has a certain expertise in the field of corporate law. So people who are the legal beagles on the committee certainly have an advantage, and the critics would have that advantage in the area with which they are familiar.

However, those of us who are not familiar with corporate law on a detailed basis find ourselves reliant upon others to provide us with the kind of information we require to deal with the ministry in a meaningful way.

I look at that as one of the possible reforms that the minister, no doubt, might wish to make known to cabinet or to the Premier, or whoever makes that kind of decision, as to what should be included in the ministry.

I think it is very difficult also for a minister to be both the minister of consumer relations and of commercial relations. It reminds me of a Freudian slip—perhaps not a Freudian slip, it is unfair to say that—by one of the members calling it the ministry of corporate affairs. It must be difficult for a minister to attempt, as this minister has, to be both the minister of deregulation

lation and the minister of regulation at the same time; because the consumers' interests, and industry and the manufacturers' interests, and the retailers' interests, are often at odds with each other.

One often has to think of the Minister of Consumer and Commercial Relations as being the advocate of the consumers' interests. I shall give an example. We would anticipate that the Minister of Agriculture and Food would steadfastly defend the right to have marketing boards and would defend the position of the marketing boards in various pricing areas, whereas we would expect that even though he might be in conflict with his colleague, even to a certain extent publicly, a minister of consumer affairs would defend the interests of consumers as they might relate to such things as marketing boards.

Even though we must have some solidarity within the cabinet—and the opposition recognizes that we are always going to be looking for ministers in conflict with one another—I think the opposition, as it were, recognizes that the consumer minister and the agriculture minister, on issues such as marketing boards, are going to present just a little different position.

I say it is difficult for a consumer ministry to hold all of these areas. I look at the organizational chart of the ministry, which of course really points out to members of the Legislature just how extensive are the responsibilities of the minister.

I would certainly recommend, though I am not prepared now to say which should go where, that as probably happens when there is a review of ministries, a serious look be taken at the Ministry of Consumer and Commercial Relations with a view to assigning certain areas to other ministries, where they might more logically fit, although I get the impression the reason they are in the Ministry of Consumer and Commercial Relations is that it is a collection of things that really do not belong anywhere else, and are difficult to put under the jurisdiction of another ministry.

This is one of the reasons that we, in the opposition, advanced the suggestion of a number of hours for each section, because we have often felt, when dealing with this ministry, that we have required some kind of established pattern. The reason for that is we have often—and I do not know, is this the minister's second crack at estimates?

Hon. Mr. Walker: Here? No.

Mr. Bradley: It is your first crack at these estimates as well.

I think we would recognize, or the minister would recognize if he has sat in before, when he was a government back-bencher, that one of the problems with the Ministry of Consumer and Commercial Relations has always been that we seemed to spend a lot of time on a couple of votes, and then when we got down to near the end we found we could not get into the kind of detail we wished to in specific areas.

I remember one year, for instance, on liquor legislation, which is always controversial, I wanted to ask several questions and time just ran out. I think we spent five minutes on liquor legislation, and the minister and the previous minister have made certain recommendations, for instance, in regard to liquor legislation as we move into the 1980s, and how it might be modified. I give the example of wine in the corner stores and so on, about which members of the Legislature have received representations.

In my opening remarks, and I shall not be exceedingly long, I shall be touching upon each one of these areas in the organizational chart of the ministry, to make certain recommendations, to give our general thrust, and then it is my hope, as we go vote by vote, that we will have an opportunity to receive answers both from the minister and from various officials of his ministry, who I think can be very helpful to us.

I should note to the minister, if he had not been informed of this, that we did break a little bit from tradition in that we already have had one of your ministry officials comment upon the visual presentation made to us, in terms of finding out its availability. I want to be talking a little bit about how I think the ministry can make itself a little better known to consumers across the province—not in the way I felt certain other ministries did during the election campaign.

If there is one area where we need communication with the public, and if there is one area where it is difficult for opposition members to quarrel with the fact that the government could advertise in a nonpartisan way, it is certainly the Ministry of Consumer and Commercial Relations, and our experience in the past has been an indication of that.

Mr. Chairman, I see it is one o'clock, and I would appreciate the opportunity to continue next day, and at that time find out the time allocations so I can fairly apportion time to the NDP as well.

Mr. Chairman: Fine. Thank you.

We meet next Wednesday at 10 a.m.

The committee adjourned at 1 p.m.

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Treleaven, R. L.; Chairman (Oxford PC)

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From the Ministry of Consumer and Commercial Relations:

Paul, S., Director, Communications Services





Ontario, LEGISLATIVE ASSEMBLY

No. J-10

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations



First Session, Thirty-Second Parliament

Wednesday, October 28, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, October 28, 1981

The committee met at 10:31 a.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

The Vice-Chairman: Gentlemen, can we proceed? When we adjourned the other day, Mr. Bradley was continuing with his opening statement.

Mr. Bradley: I am going to continue my opening statement on the estimates of the Ministry of Consumer and Commercial Relations. I should, at the beginning, indicate to members that I do not intend to dwell extensively on the Upholstered and Stuffed Articles Act or the Unclaimed Articles Act, but will be concentrating on other areas which I think are of great interest to the general population.

Mr. Philip: My Teddy bear was always important to me as a kid. I do not know why you are playing it down.

Mr. Bradley: Two items which I have always felt are very important in the Ministry of Consumer and Commercial Relations are the Liquor Control Board of Ontario and the Liquor Licence Board of Ontario.

Mr. Chairman, I have come to the conclusion that with the controversy that surrounds the possible changes in the Liquor Licence Act we should have a select committee on liquor legislation. I know we seem to have select committees on everything, but in this area a select committee that would work within a specific time limit would be useful.

I am not necessarily saying that this is the kind of committee that would go to investigate liquor legislation on the French Riviera or anything of that nature. This can be confined certainly to Ontario. We are in a changing society, yet some of us are a little reluctant to see the kinds of changes which are advocated by many people who are in the business.

The minister has let fly a trial balloon about the possibility, for instance, of allowing restaurants to serve alcoholic beverages before 12 noon. Most people in our society would tend to say that there is not too much opposition to that

kind of thing happening. With business lunches, with staggered hours, and so on, the availability of an alcoholic beverage with lunch is something that is reasonable.

Some areas are in competition with those over the border, which makes it difficult for our people, and they are asking us for extended privileges in a variety of areas. I think of the Niagara Falls and St. Catharines areas, for instance, and I am sure it is the same in Windsor, where people who own drinking establishments, taverns, restaurants and so on indicate they lose a lot of business to the United States because we close at 1 a.m. six days a week and on the seventh day at an even earlier time. They see that as being important.

Yet I still think there is a segment of the population out there which is concerned that the more we make liquor available in terms of hours and access—

Mr. Gordon: Which side of the fence are you coming down on?

Mr. Bradley: —the more we contribute to the problem of alcoholism. I think the member for Sudbury makes a good point. What side do we come down on?

I think it would be valuable to have a select committee to get points of view. When you advocate certain things, you get reaction from the public. I get telephone calls from a person whose husband is alcoholic, and she will say, "You are advocating something which you think is progressive and in keeping with the desires of business and perhaps the younger population, but do you know the problems which exist with alcoholism?" People relate the greater access to alcohol with the problem of alcoholism. Whether it is fair to do that or not is open to some question. Nevertheless, there is that segment of the population.

When we advocate what we would call more progressive legislation in the field of liquor licensing and liquor control, I wonder on many occasions whether we are contributing in some way to increased consumption or whether we are contributing to moderation and a more realistic approach to drinking.

Mr. Philip: Does it not make sense the way it

is? If somebody is going to get mugged in Detroit, it is a lot less painful if he is drunk when it is done.

Mr. Bradley: I have never thought of it in exactly those terms, Mr. Philip, but that is something a select committee would deal with, no doubt.

Mr. Gordon: Really, what you are proposing is a sort of mugwump select committee. You cannot be serious in wanting to spend all that money just to try to decide whether some people were for drinking and some people were not for drinking. We have known that for years.

Mr. Bradley: I think what we have to remember is that the Ministry of Consumer and Commercial Relations already spends thousands upon thousands of dollars on polls taken to receive input from the people of Ontario. Then it decides its policies, based on those polls, as opposed to what the government feels the policies should be. When the member for Sudbury suggests through his interjection that somehow a select committee is going to cost more than the amount the government has paid to carry out its polls over the years, I think it is probably a wrong judgement on his part.

Mr. Gordon: Mr. Chairman, on a point of privilege, I really have to answer that.

Mr. Bradley: I am going to continue with my remarks.

The Vice-Chairman: Let us see if there is a point of privilege.

Mr. Gordon: What I said essentially to my colleague on the other side is that he is suggesting going out and spending more money to try to decide whether people want to drink or do not want to drink. We were not talking about polls. Just because polls are used by government or the government sets up select committees does not make it right to go out and say we are going to set up another committee and spend more money. Just because you spend money does not make it right to want to spend even more money.

To me, that is one of the problems with the provincial and federal levels of government. Everybody is so anxious to spend the taxpayers' money. I do not think that is the point.

The Vice-Chairman: Mr. Gordon, I think it is a difference of views.

Mr. Bradley: Yes, Mr. Chairman, I would tend to agree with you that in this particular case it is a point of view. I am very pleased, nevertheless, to have the member for Sudbury

on record as being opposed to what he feels is wasteful spending on polls on the part of the various ministries.

Mr. Gordon: On a point of privilege again, you are putting words into my mouth.

Mr. Bradley: That is just what you said. As your leader said, you cannot have it both ways. You cannot say you are against wasteful spending and then turn around and say you are in favour of wasteful spending.

The Vice-Chairman: I think we are getting into a debate here, gentlemen. Let the critic continue without interruption and save your remarks until later.

Mr. Bradley: Mr. Chairman, I think there is room for considerable movement, at least, in the field of liquor legislation. For instance, many people have been advocating the availability of wine products in corner stores. While we recognize once again that accessibility can cause some problems and that the possibility of young people having greater access to alcoholic beverages is present, because the security at the corner store may be a little less than the security at a liquor store, nevertheless, there is a lobby in favour of it. As a member who represents a riding which is adjacent to the grape-growing areas and the wine-producing factories, I would say it would certainly help business in our particular area. But I would not base my position on whether it helps business, but more on whether it is reasonable for the people of Ontario.

10:40 a.m.

There are many areas we could look at. The minister was not here earlier when I mentioned he had sent up a trial balloon on an earlier opening hour for drinking establishments. We were talking about the fact that there are some sensible changes we think can be made where we believe you would get the opposition's support in them.

I simply point out to the members of the committee that it is not an easy area because we all wonder philosophically whether we are contributing to alcoholism or are really promoting moderation by making liquor more accessible. In the old times when one had to close down the bar at five o'clock or 6.30 or something for an hour or two at supper time, people would wolf down the beer as fast as they could. I think that did more damage than anything else, although I guess the theory was that the people would then head home if the hours were cut off there.

There are many areas in terms of liquor legislation where I think we could explore the possibility of some changes. Certainly those who own drinking establishments on many occasions bring to the attention of the Ministry of Consumer and Commercial Relations changes which they feel would be beneficial. Many of them tell me that to meet the regulations of the ministry on the ratio of food to drink one has to be a liar and that the only people who are meeting those regulations are those who are lying to the ministry. I guess nobody wants to put up his hand and say he is doing that, but apparently it is pretty widespread.

So we might well have to look, as a committee or through your ministry, at some changes in that area, because I think we would prefer to have people being honest with the authorities rather than being dishonest in order to meet regulations that are rather unrealistic. Anyway, it is an area on which we will be speaking in some detail about the possibility of changes in the legislation.

One other area which I must mention in my opening remarks is that of birth certificates, because I think we have all as members encountered problems there. If you want another advertising program for the provincial government which would be beneficial to Ontario—and hopefully not too costly, as the member for Sudbury has cautioned me on that—it would be to indicate to people that they should have a birth certificate. Young people across this province have crisis situations when they have to play a game on the weekend, whether in softball, soccer, hockey or something of that nature. They end up calling the constituency offices of the various members, and we find that so many people in this province at such key times do not have a birth certificate.

I think the knowledge of how to get a birth certificate—I do it through my constituency newsletter—is something of value. People end up wanting a social security card, but they have to get a birth certificate first. If they are going to get the old age pension, it is useful to have a birth certificate first. There are so many areas where it is necessary to have a birth certificate, but so many of the population simply do not have them and that causes real problems for those individuals.

Fortunately, your ministry, through the appropriate division of the registrar general, is kind enough to assist members in emergency circumstances, but the emergency circumstances are

becoming almost commonplace as a result of the fact that people simply do not bother to get birth certificates or retain them.

We should look at the area of phoney invoices. I think Mr. McGuigan of the Liberal Party asked a question of the minister in the spring session about the phoney invoices campaign that went on. I recognize there have been some changes. If we read them carefully, we see that the ones that exist now, as compared to the original phoney invoices, are considerably different, and this is because of your ministry's intervention. Nevertheless, if we could explore further ways of attempting to get rid of this practice of phoney invoices, it would be beneficial.

Personally, I think a major step has been taken. With the bold printing, it is much more evident to people who want to sit down and read it to determine if it is indeed a phoney invoice. Nevertheless, with the volume of work that takes place within various businesses, with attitudes that have built up in the past, we still have situations where chambers of commerce across this province are having to sound the call through their local media about phoney invoices. I still tend to get complaints in this area, as I am sure other members do.

I hope that we can explore to some extent an issue in the Ministry of Health's domain which concerns many of us across the province, the urea formaldehyde foam insulation problem. The value of many people's homes has gone down dramatically because they were encouraged—and I recognize the federal government plays a major role in this—to insulate their homes. They used urea formaldehyde because, apparently, it was approved, or at least they felt there was a seal of approval on it. They now find it poses a health risk. I hope the province is prepared to take some more extensive action to assist those people.

Also, I think the federal government has a role to play. They are the primary villains in this as far as I am concerned, and we, as a provincial Legislature, should continue to put pressure on the federal government to take action.

The field of censorship is one which requires our comments. I do not think we are going to get the kind of extensive comments, interviewing or questioning we had last year of the Board of Censors. But your polls—I want to talk about polls in a few minutes—indicated, I think, that the people of Ontario are not prepared at this point in time to accept simply classification of films. In a utopian society, I suppose that might

be acceptable, but there are scenes within movies sent in for your Board of Censors to review which are unacceptable, I think, to the majority of the population.

One aspect we tend to forget when we try to be trendy is that people are involved in making those movies. And so we are very concerned when we see children being exploited in movies in a way which we feel is not necessary. We become concerned when we see overly explicit scenes of a sexual nature. We become very concerned when we see violent scenes taking place. It is easy to say it is only a film, it is only a show, except for the fact that there are people involved in making those shows—actors, actresses and others. Their lives are affected by the fact that a jurisdiction such as Ontario might be prepared to accept some of the trash which is put forward in the name of art.

Therefore, I think the minister is correct to express caution about these areas and not just go for a wide open situation. I recognize that a segment of the population, maybe a significant segment of the population in this province, feels that classification is the only thing that is necessary. I do not share that point of view. In terms of censorship, I think we have gone an awful long way. I guess when we look at what was permitted to be shown in the theatres in our teen-age years—late teens and early twenties—compared to what is permitted today, there is a substantial change in terms of what we can see and what we can hear in this province.

There are some who would say that has contributed to the general moral decay of our society. I do not know whether I can agree with that at all. But I still hope that we, as a committee, and your ministry recognize the need for some caution in terms of what we permit to be on the screens because of the two ends—those viewing it and those involved in making these movies. That will be worth while exploring.

I think the concern we expressed last time was more on the basis of the procedures followed with the censor board, of some possible intimidation that was taking place of censor board members. That was our great concern last time as opposed to necessarily what ultimately turned out to be on the screens in Ontario. We will be looking at that area and questioning the minister about the new makeup of the Board of Censors.

10:50 a.m.

I think the new makeup has been an answer to what opposition members have demanded for a

number of years. For us to turn around now and say we do not agree is going to be mighty difficult, because what we have said over the years is the makeup of the censor board should be such that a number of points of view of the people of Ontario are reflected in the decisions. By the changes that the minister has announced, that is going to be the case.

Our concern expressed in the House was over one particular individual and the disposition of that individual, Mr. Cunningham. I think members of this committee felt he was rather detailed in his testimony before the committee, but was very frank and honest.

It appeared that Mr. Cunningham's prize for being so honest and frank with the committee was that he was out of a job, and not quickly offered another job within the ministry. I know the minister will want to comment on that specific case when we come to the theatres branch.

That is our concern right across government. When people are honest from your ministry, they should not be penalized. The minister said to us at the beginning of the estimates, and many ministers say this to the opposition members, that the staff is available to us for consultation, for information and so on. I am afraid we get the impression, whenever we ask your staff a question, that within a very short period of time the minister has the knowledge that an opposition member has asked that particular question or has made a particular statement.

It becomes a matter of trust. We have to determine whether your staff is working for the people of Ontario, which includes the opposition, or whether your staff is working for you as an individual and for your government. We become concerned about the politicizing in a partisan nature of staff. If you are a staff member and you are under the impression that if you buck what the minister wants, or if you are going to be overly frank with members of the opposition in committee, that somehow you are going to be demoted or shoved out, or at least your chances of promotion will be limited, then you are going to say those things which you think the minister wants to hear.

I think you have enough independent-minded people within your ministry and that does not happen on an extensive basis. Nevertheless, Mr. Minister, it concerns us when we see some of the tricks—tricks I guess is a strong word—that you pull in the House in your attempts to look clever before the nodding and smiling news media.

We start to ask how can we trust those

particularly close to you, such as your executive assistants. I think as we get further away from you into the ministry itself, there is certainly a greater trust and respect for the job that your officials have done over the years. One cannot look down a list of those names of people who have been involved in your ministry and not have a good deal of respect for the job they have done over the years.

I am hoping you will not—and I will use a strong word, although it is probably too strong—intimidate the members of your staff to such an extent that they feel they must report to the minister if an opposition member asks whether the Upholstered and Stuffed Articles Act should be changed in a very minor way, that the minister has to know about that and be briefed on it.

I think that would make for a greater utilization of your staff than using it for your own purposes. It revolves around the whole issue of the estimates process and of government in Ontario right now. I have a great concern that we are quickly moving towards, or perhaps we have been in it a long time, a situation where we are almost undemocratic, or at least where the weight of power lies very heavily in government hands.

Some progress has been made. Opposition members now have their own secretaries. At one time they did not, I understand; neither did individual back-benchers on the government side. We now have research assistants available to us and so do you. You have Wayne Mercer sitting here all the time coaching your members on action. He does an excellent job.

Mr. Andrewes: He is a cheer-leader.

Mr. Bradley: No, he is not just a cheer-leader. He calls the shots, and I think he is a pretty clever fellow. You have research available to your members, but what I am saying is you have the weight of the ministries. If we want to ask questions, we have to dig ourselves. We have to go through the clippings. We have to have our research staff, already spread very thin, attempt to come up with good questions and some counter-arguments to yours.

You have millions of dollars worth of ministry people to provide you with the answers. If I ask you a question and you do not know the answer, you simply snap your fingers and an expert from the ministry hands you the answer and you answer us.

Hon. Mr. Walker: They do have other responsibilities.

Mr. Bradley: No doubt they do. I am now talking about the process of estimates, Mr. Minister, and how we feel we are at a disadvantage. I think we are in a really difficult situation at Queen's Park at the present time with the majority government. It is not healthy for a democracy to have the situation that exists here.

I guess, being the government, you view it differently. You tend to think, "Well, the opposition certainly does pretty well with the limited means that they have." I think you tend to view it from that side, and I recognize that I am viewing it from an opposition member's side. But it becomes almost depressing for opposition members to know that you have got 50 of the 52 cards in your deck on all occasions, and estimates is just another area where that is true.

Having said that, we shall try our very best to probe areas of your ministry that might be weak in an attempt to strengthen them and, of course, compliment your ministry on the changes that are made. If a problem exists, we shall blame the minister; if a problem is solved and there is success, we shall certainly give your officials due credit.

Hon. Mr. Walker: What you are saying to me is that you are going to divide your time equally between criticism and praise.

Mr. Bradley: I did not suggest that because there are probably far more areas of criticism than there would be of praise, as far as the minister is concerned. With some of his officials, that is a different matter.

We also look at the field of poll-taking. I am hopeful that even in a majority situation, because of your great sense of fair play, you would want to release poll results to the public and members of the opposition and not hide them as certain ministers have in the past. We had to pry poll results out of certain ministers last time round. I hope that battle is over. I hope you are prepared the share results of those polls almost immediately.

We in the opposition tend to suspect that the polls were taken for political purposes. The ministers deny it. They say, "Our ministry wanted to know how our programs are working and just in what areas the public is prepared to accept new action." Well, to me, that is a political poll any way you look at it. We fear that the government simply rules by poll. I do not know if you can directly attribute it to that; it is a pretty difficult charge to prove right down the line.

Hon. Mr. Walker: This is a political business, though.

Mr. Bradley: Certainly you have indicated that as minister; you have certainly proven it is a political business. Nevertheless, I think that when you are using taxpayers' dollars to take a poll, the results of that poll should be made available to the representatives of all the taxpayers of this province on an equal basis and at the same time. I hope the minister takes it upon himself to do that.

We will get into the field of rent review, which we will be discussing at some length, because I think we recognize that it becomes increasingly controversial as circumstances change over the years. The minister has now made suggestions—I read his opening statement and I listened with a good deal of care as he delivered it—that somehow he is prepared to entertain changes in the Residential Tenancies Act. The ceiling of six per cent increases may very well be lifted. You would have been on much better ground if you told people that during the election campaign instead of hinting of it after the election.

I think that all of us who went door-to-door recognized a firm commitment in your party's literature to maintain rent control. There was never any suggestion in any of the literature I read from your party or in your broadcasts that the Residential Tenancies Act was going to be changed. For that reason, we in the opposition become very concerned when we hear hints that there are going to be significant changes. We hope you will hold to that promise of six per cent, although you may say that you never did promise six per cent.

Hon. Mr. Walker: We did not promise six per cent.

Mr. Bradley: There was never a suggestion that you were going to change that, and I think the public perception was that that was the way it was going to remain. I know the minister will explain, once we get down to that, what his view is on that. It is important to maintain the six per cent and the level at which rent kicks out, \$750, must be maintained. Even by keeping it at \$750, there are going to be more and more people who are exempt from rent control by the fact that rents are going up, at least on a six per cent basis. The Residential Tenancy Commission has permitted larger increases; so there are going to be some rents that are going to make it up to that \$750 level, regardless of what happens. If anything, I suppose, that should be increased rather than decreased, but certainly we would ask that you maintain that.

11 a.m.

We would hope you would look at the possibility of a rent registry—it could even be kept in the building itself—where people would know how much was charged for a particular unit when the last person was in there, so the tenant moving in would at least have the knowledge of whether or not the landlord was going to charge an illegal rent, illegal through the rent review program under the auspices of your ministry.

I think that would be useful if it could be done in a practical sense, and I do not see why it cannot. The bookkeeping is not that great. One simply lists what is charged for each unit within the building and puts a figure beside it, and that would be available to the tenant coming in. I think that would be useful in avoiding problems where there might be a so-called illegal rent charged.

There are a number of other areas I want to explore in terms of rent review when we get to that particular vote, but I will not take undue time now to do that.

In terms of lotteries and the lotteries branch, we shall have some comments there. I shall make a general comment about lotteries. The minister might even agree with me, although I doubt he is going to say it, because he has had some experience, no doubt, with charitable organizations and service organizations within his own community. I get the impression that these people are being shoved out of the lottery business. Some pretty crusty, old-time Conservatives are the people who agree with me most on this particular issue. They look at Wintario, the Provincial and Lottario and whatever the federal government runs—I must put in a side comment here: I thought it appalling, at a time when we were in difficult economic circumstances and when there were a lot of problems revolving around Ottawa, that the announcement that came out was that they were going to get into yet another lottery. I thought it was ludicrous to do that.

Although the lotteries have had certain benefits for us in terms of providing funding in areas, one of the impressions I get is that it is shoving out the service organizations. It used to be that if you ever told service organizations there was going to be a government grant for them, they would shake their heads in disgust because they wanted to do it on their own. They wanted to raise their own funds and have, I think, a greater pride in the project they were carrying out.

I belong to a service club that gets Wintario grants. Time after time after time people are

applying for Wintario grants. I just shake my head at that. I guess it is the old story. If it is there, everybody is going to get in on the pie, but it really starts to remove the real purpose of service clubs. When your only purpose is to get a government grant, then why have a service club? That is one of the problems that exists.

I recognize there are a lot of projects carried out that could not have been done otherwise, but there is that attitude. A lot of people, particularly older members of service clubs, feel their lotteries are being adversely affected by Wintario. I remember when I used to go into a staff room when I was teaching and used to sell tickets for the Optimists Club—and they would be 25 cents apiece or five for \$1 then—I was able to sell them very easily. I would have 30 books sold right away. Then along came Wintario. After that, when I would come into the staff room, one would think it was Dracula coming into the staff room with those tickets. Nobody wanted to buy them. They would say, "Oh, I already bought my Wintario ticket," as though you are cleansed if you give to the united fund of lotteries, which is Wintario, and that somehow you had done your duty. Also, of course, the prize is greater.

I really caution governments at all levels about getting further into lotteries, and I hope they would actually cut back in the take that they have of the small-time gamblers' funds.

Mr. Mitchell: May I just interject to ask you one question? You said service clubs have indicated to you some problems. Where else have you received any concern? Is there any other specific case?

Mr. Bradley: I think charitable organizations, aside from service clubs, are the same thing. When they go out to sell their tickets on a car, it is harder now. When they go out to sell tickets for anything, it becomes increasingly difficult because they are in competition with government lotteries at the federal and provincial level. They get the feeling now that maybe they should be like the rest—take the money from the government and raise a little bit themselves where they can here and there. It is a difficulty that a lot of service club members see. All levels of the government are guilty, and certainly not this level of government alone. I thought I would get that shot in under the lotteries branch of this government.

In terms of commercial standards, I have already indicated some concerns to the minister. I was disappointed that the government members wanted to see a cutback in discussion

in that particular field, but I accept the compromise that Mr. Mitchell was kind enough to offer. It is a compromise which we could all live with, and we have to compromise. I was hopeful we would have had more time to spend on commercial standards, business practices and so on, and I will get into detail on that. I have already spent a lot of time even before these estimates on that, so I will be kind enough to my friends across to avoid that at the present time.

Auto insurance is another area we want to look at. I notice the minister has acted upon a question which I asked him in the House last spring, and I am sure many others brought to his attention. That is the fact that there was some discrimination against senior citizens in terms of automobile insurance. I am pleased to see that the minister is acting in that particular area and that these people are not going to be discriminated against as they have been in the past. Age alone is certainly not a valid reason for discrimination. I commend the efforts of this ministry in that area.

Condominium legislation will require some review by this committee. We went through the act. Mr. Philip was very much involved, as I well recall, in the review of the Condominium Act before—

Mr. Philip: All the Liberals voted with the Conservatives to squander all that money.

Mr. Bradley: After complimenting him, of course, I receive my due just—or just due, one of the two.

Mr. Philip: It was not your fault.

Mr. Bradley: No, it was not.

Mr. Philip: It was Mr. Breithaupt. You were enlightened on the issue. You cannot help it if your party squelched you.

Mr. Bradley: Anyway, that is a side comment.

Mr. Philip: They do that all the time.

Mr. Bradley: We will want to look at condominium legislation in some detail.

There was another area where Frank Drea, when he was the minister, seemed to get a lot of play in the press. I am not saying that ministers simply exist for getting play in the press. An area where he started to move into, or at least told us he was moving into, was automotive repairs. That has to be a gold-mine for a minister who wants to be minister of consumer affairs as opposed to corporate affairs. The number of ripoffs that exist in the repair business is very great and it is very difficult to control.

Your ministry has tried in certain areas—the

transmission business, body repairs and so on. The cost of that is phenomenal, and we have to be ever vigilant in that area. I will be interested to see, when we get to that vote, how your ministry is moving into new areas, or what success you are having in preventing this from happening. We are all vulnerable to that, particularly those of us who have very little mechanical knowledge.

We want to look at the Ontario New Home Warranties Plan Act. Both parties have mentioned the Rembrandt situation. We will want to deal with that in some detail. I recognize that came before the warranty that would have covered it, but there are people who had an undertaking from at least one previous minister to take some action. I will be interested to see what your ministry has done in that area.

Overall, Mr. Chairman, we think there are a lot of areas to cover. That is why we asked for 25 hours. I found the minister's statement to be interesting, but inadequate in covering many of the problems we see. I look forward, as we go through the estimates vote by vote, to all members of this committee being able to deal with these in a detailed manner and perhaps assist the minister in areas where he can legislate or regulate.

In my final comment—and it is unusual, I guess—I would like to pay tribute to another member of the committee. I could not help but look at you in making your statement about the fact you had persuaded the major stores not to use electronic price marking. There seemed to be a self-congratulatory message in there. I would simply remind the minister that if it had not been for the member for Welland-Thorold (Mr. Swart) constantly getting up in the House and demanding that the previous minister take some action, I doubt whether we would have seen that kind of action. His persistence in that area has had some favourable results, and perhaps that goes counter to my argument that the members of the opposition are rather weak in terms of their powers of change. Certainly, through the publicity he generated in that area, we did see that change.

11:10 a.m.

Mr. Swart: Mr. Chairman, in this leadoff speech, there are many areas I would like to cover because it is such a diverse ministry, as the minister and the member for St. Catharines pointed out. I guess leadoff comments are supposed to be an overview; to some extent they deal in principles and philosophy.

You have done that to a very large extent in

your comments, Mr. Minister. I am going to follow that pattern, partly because it is a pattern, but more because of the thrust of the philosophy which you have proposed—and I think it is a philosophy which had not been expounded by the previous minister or, to the best of my knowledge, by Consumer and Commercial Relations ministers before that. It consists really of the twin moves of deregulation, on the one hand, and maintaining weak or nonexistent competition laws at the federal level on the other hand. I am convinced that these twin moves are going to be devastating to the consumer in the same way as your personal views with regard to the abolition of rent control would be devastating to tenants, if you were to put that through.

Because of those right-wing views—and I read someplace a short while ago that you were studying Reaganomics—and because those right-wing views have certainly been a disaster, whether in Great Britain or whether as now appearing in the United States, I want to meet them head on here today. It is possible that the majority of my comments—perhaps all of them—will cover that sort of philosophy. The last deregulation—

Mr. Philip: The last do-nothing minister was Handleman, you may recall, and now we are going through another do-nothing ministry again. Sid Handleman will be very proud of you.

Mr. Mitchell: Mr. Philip, you are very quick to judge, are you not?

Mr. Swart: It may be that after the admonition from the Premier (Mr. Davis) and leader of your party that you may rethink some of these right-wing views. According to the *Globe and Mail*, Mr. Davis "warned the growing right wing of his party against getting caught up in theology"—I think perhaps he meant theory, not theology—and moving toward the ultra-conservatism of the United States, of President Ronald Reagan or British Prime Minister Margaret Thatcher. I hope you will take that admonition to heart and will back off from some of the right-wing moves you are proposing.

It is in this field more than almost any other place that the NDP differs from the Conservatives and many of the Liberals—not all of them. We feel there is real reason, on occasion, to interfere in the marketplace, while the Conservatives generally expound the philosophy which you expound, a hands-off policy. Certainly at the present time, although it is primarily a

federal matter, there is need for interfering in the marketplace with regard to interest rates. They are devastating our economy.

I am always interested to hear the Conservatives condemn what is taking place, but if they were there exactly the same thing would take place. If there were a federal Conservative government, it would not intervene, and yet the government has the power to give itself the power to intervene and directly order those interest rates to be lowered. That is, of course, what needs to be done. It is devastating our economy.

Every time the Conservatives get up in the House of Commons and start condemning the high interest rates, it is hypocritical because when they were there, if anything, they even gave more freedom to the interest rates in the marketplace. One of the two big pitches by Trudeau in the last federal election was that he would intervene and lower interest rates. Of course, they have not done that at all. When it comes down to it, they will not intervene in the marketplace on behalf of the public of this province or of this nation. It is simply contrary to all of their philosophy and they will not do it.

Mr. MacQuarrie: Crosbie's budget would have done that.

Mr. Mitchell: It looks pretty good today, does it not?

Mr. Philip: It would have been a little bit more than under the present system.

Mr. Swart: I think most of us in all parties would agree that real and effective competition is a very effective price and quality safeguard for consumers. I make that statement categorically. Where that kind of competition does not exist, then some kind of government regulatory intervention must replace it. If there is no competition to give that protection, then there has to be some kind of government regulation.

Of course, government intervention is also needed to protect consumers in sophisticated areas, in concealed areas where the consumer cannot be expected to be aware of what is going on. We do this in our society with regard to building regulation. If a house is going to be sold, there is a building inspector to investigate it. There are building regulations with regard to the size of the studding and everything else regarding how it shall be built because the consumer cannot be expected to do that.

The same is true with drugs and a great many things. The same needs to be done with prices, but on that the government keeps totally a hands-off policy.

Mr. Philip: Frank Drea's wife did go out and do some comparison shopping. You have to at least give her credit for doing that.

Mr. Swart: Yes. That was the full extent of the government intervention—Frank Drea's wife doing a little comparison shopping.

Mr. Philip: At least it did not cost the government any money, as Condominium Ontario did.

Mr. Swart: Your philosophy now diverges even from that competitive philosophy, Mr. Minister. At the delivery level to consumers, the statement which you made to us is really a mishmash of contradictions in consumer protection; at the higher level, the corporate level of production and process, you are making a clear, conscious decision to destroy consumer protection by rejecting competition and totally opposing intervention.

Interjection.

Mr. Swart: Oh, yes, and I will come to that in a few minutes. In effect, you reject competition in your statement and totally oppose intervention. It has got to the stage now where, at least in this province and I think perhaps in this nation, it is the NDP that is the protector and the defender of competition.

Mr. Philip: We are the free-enterprise party; you guys are the protectionists.

Mr. Swart: We are the protector and the defender of competition. It is the NDP that wants to see that real competition is assured in the marketplace.

I want to deal briefly with this mishmash with regard to the delivery at the consumer level. In your speech you talk about deregulation. You make such comments as, on page two of your speech: "There are two related thrusts to our operating philosophy. One is to get government out of the hair of business by, for example, returning responsibility to the private sector for many regulated activities, particularly activities it can handle more effectively than government without compromising the consumer interest. The other thrust is to encourage the consumer to be more vigilant and self-reliant in purchasing goods and services."

Then, if we go on to page nine, I believe what you are saying is essentially we should be encouraging the free-market system to resolve its own problems as much as possible without government interference. On the surface, I suppose, those are nice, palatable phrases. But they do set out your philosophy of deregulation, which in many areas is not workable.

Then you go along further in your speech and talk about what my colleague the member for St. Catharines just spoke about, about government intervention to assure that price tags are kept on individual products. I applaud you for that, but surely that has to be the most detailed intervention you can have. How does that fit in with your philosophy? Of course it does not fit in with your philosophy; it fits in with political expediency.

11:20 a.m.

You brag, applaud yourself and applaud your ministry in your opening statement for proposing to take a further intervention into the brokerage area to assure protection for the investors, whom, I suppose to some extent you call the consumers. How does that fit in with your philosophy of deregulation? Of course it does not.

Again, you know what has happened because there has not been adequate investigation or adequate protection. You know what has happened with regard to Re-Mor; you know what has happened with regard to Co-operative Health Services; you know what has happened with regard to Argosy. So for political expediency you deviate from your philosophy.

On page 10 you make these comments about consumer protection. You say: "In fact, during the past three years alone we have successfully recovered more than \$6.5 million. This underscores the continued commitment of the ministry to helping the Ontario consumer receive a fair deal in the marketplace." I applaud you for this.

You go on to say: "The \$2.6 million collected on the consumers' behalf last year represents a 23 per cent increase over the previous year, following ministry mediation in 5,444 cases, which include false, misleading or deceptive business dealings." That is a dramatic increase of intervention in this field, again, contrary to your philosophy. For politically expedient purposes you will intervene. After all, in those 5,444 cases you are talking about there are probably 15,000 votes or so, if you consider the family and the friends. For political expediency you intervene. I applaud you for intervening, but I am trying to point out the contradiction.

Then in your speech you talk about deregulation and self-regulation of HUDAC, but who polices the policeman if HUDAC is the policeman? That is industry-operated. Your ministry, in fact, is doing a lot of duplication.

When my constituency office has problems it may get in touch with HUDAC, but it is much

more likely to get in touch with your ministry with regard to houses and the ministry gets in touch with HUDAC. Here we have a duplication and really an intervention in policing the policemen.

And all of this is done under pressure. Where you do intervene, it is done under pressure and frequently too late, as in the case of Re-Mor and the other financial institutions. Your real policy to protect the consumer is one of nonintervention in any place. But in those places where you are forced to do it for political reasons, you will do it so that you do not lose too many votes.

I say it is not good enough that that is the only kind of intervention you deal with. If democracy is going to function properly for the benefit of the citizens of democracy, then it means more than just intervening when public pressure is brought to bear on you.

This operation by polls that was spoken about by the member for St. Catharines is an important part of the input into government operations, but that is not the total input into government operations. There is an obligation on the government, on all of us who are elected for that matter, because we are in a position where we can look in depth at issues and situations, to give leadership, not just when there is public pressure but at all times. That includes leadership in the whole matter of pricing and competition and seeing that the consumer is not ripped off.

Simply, at the delivery level you intervene where it is visible, where there is a protest, where the consumer can see. But where there is major consumer exploitation at the production or the processing level, where the consumers do not see it, you will not look for it. If it is there, you will simply turn a blind eye to it. This ripoff at that level, where you refuse to intervene, far exceeds the ripoff where you do intervene on these consumer items.

On page 12 of your statement these words appear: "The . . . survey . . . shows that governments continue to be seen as favouring business more than consumers"—and then you state—"though this is quite contrary to the emphasis of our approach." I say to you, Mr. Minister, that the public is perceptive. In fact, you favour commerce much more than you favour the consumers. The public recognizes that and rightly so.

This perspective of yours of not giving consumer protection, of deregulation, of not assuring that there is competition, is borne out by your attitude on the federal competition

laws, and I am going to come to that in a minute. It is also borne out by the refusal to intervene in many obvious areas of consumer exploitation because competition is weak or not existent. I would point out that this is true in the area of milk, which I brought before you just a week ago in the Ontario Legislature.

I think I am right in saying I sent to you the letter which I had received from Mr. Peter Gold of the Ontario Milk Marketing Board. The figures and comments in that should disturb you and should cause you to wonder if the time has not come to intervene in the so-called market-place.

Does it not bother you, for instance, that the number of dairies in Ontario now is only approximately one quarter of what it was before? I think there are 35 dairies with 54 processing plants. Most of the cities have only one dairy. In many areas of this province there is only one dairy within a 100-mile radius. That eliminates competition, surely you must agree. The competition—and I think you would agree with me on this—in the processing and the distribution of milk has dramatically decreased. I do not think you can argue on that.

That has been taking place in Ontario, and you recognize that Ontario is only one of two provinces in Canada that does not have some kind of price regulation beyond the farm gate. It is true that Manitoba is holding it in abeyance for one year. The Conservative government there is trying the deregulation process. All the rest of the provinces in Canada have some form of price regulation after the farm gate, most of them right to the consumers.

It is rather significant I think that Quebec, which has perhaps the most comprehensive legislation, pays to within one quarter of a cent—perhaps I should say one third of a cent per litre—the same price to the farmer as does Ontario. But their retail prices are substantially lower. I think you would agree their market is somewhat similar to the market in Ontario with regard to concentration of population, et cetera. Yet their retail prices are substantially lower than they are here in this province. At the present time, their prices are about five cents lower. After we get the four- or five-cent increase or whatever it is going to be—and perhaps you know—we will be 10 cents a litre higher than they are in Quebec.

I am the first one to agree with you that it is always difficult to make accurate comparisons because the price will go up there at one time and go up here another time. You can pick a

time when it may have gone up there and not gone up here, or vice versa. But if you look over the pattern for the last year or two, you will find that Quebec retail prices are substantially lower than they are here in Ontario.

I would think that would cause you to wonder if maybe your government should not intervene for an essential commodity like milk on the retail market. You know the Ontario government has authority in this field. The Attorney General has written us a letter stating that it does.

11:30 a.m.

I would think the fact that the producers, as in this letter, are getting a substantially lower percentage of the retailer's milk dollar, a dramatic drop in recent years, while in other provinces it has been going up, would also cause you some concern.

I would think it would cause you some concern that when you have here that the producer revenue portion of the retail price, based on the one litre retail price, in Ontario has gone down from 56.3 per cent in 1976 to 51.2 now, and shows a dramatic drop from 1979 to 1981 from 55 down to 51; and when the farmer's share in the price on the three quarts has from 1976 dropped from 71.1 to 61.8 per cent, while the competition has been lessening and dairy profits, particularly in recent years, have been increasing very substantially.

Hon. Mr. Walker: You are not going to repeat those two examples you gave in the House, are you, about the profits of milk companies going up?

Mr. Swart: I will repeat them if you would like me to, but the profits have been increasing recently on dairy products, and I am sure you are aware of this.

Hon. Mr. Walker: They were phoney ones to use.

Mr. Swart: They were not phoney at all, I can give you the exact figures on those percentages taken from the financial statements.

Hon. Mr. Walker: You did not tell the whole story in the Silverwood's one. You did not tell that that is not where they got their profits from. They got their profits from another operation.

Interjection.

Mr. Swart: I agree with you; they handle more than milk, most of them do, but they tell me and they tell our researchers that they cannot divide between the two. You are only speculating if you say they make those profits on

other parts of their operation. I may be only speculating that they are made on the dairy, but with all of these other factors that I am giving you, which are accurate, I would think it would cause you to investigate.

Maybe that is exactly what you should be doing, finding out just the kind of profit they are making at the present time, but you take hands off, or your ministry has in the past. You are not going to get into the act; you are not going to do this kind of investigation. I am saying to you that is not good enough. When you can see that competition has lessened dramatically, then you have to provide some other alternative, but you just simply refuse to do that because of your blind faith in the private enterprise system whether competition is there or not. That is the whole thrust of what I am saying today.

I could give other examples, examples of ethylene glycol, where my research department itself did substantial investigation into why the retail price of ethylene glycol, Prestone, is twice as high in Canada as it is in the United States and has been for more than a year. Although the United States has more companies and, therefore, more competition, two companies, Dow Chemical and Union Carbide, are the only companies that make it here. Once again their profits have increased dramatically.

Again, these companies make many products—I am not saying that is their only product by any means—but Union Carbide's profits, from their own financial statements, have gone up from \$20 million in 1978 to \$58 million in 1979 to \$80 million in 1980. We have had this tremendous increase of 75 per cent in two years in the price of ethylene glycol here, whether it is from Dow or from Union Carbide, and there are only two firms. When their prices went up at the same time, it seems to me that should be examined.

Perhaps it should be examined by the federal government. In fact, when I raised this in the House last year, Mr. Drea wrote a letter to the federal Minister of Consumer and Corporate Affairs, I have a copy of it here and you will have a copy in your file. The essence of that letter was that it looks as though that may very well be an unreasonable increase, but our competition laws are not tough enough really to do anything about it. That was the essence of the letter.

I could go on and talk about the price of salt.

Mr. MacQuarrie: What about the price of ethylene glycol over that period? Did it go up?

Mr. Swart: Yes. The price of ethylene glycol went up 75 per cent. That is the point I am making.

Mr. MacQuarrie: You said the profits went up 75 per cent over the period.

Mr. Swart: No, you were not listening. I said the price of ethylene glycol went up 75 per cent. I am glad you raised that point because the price of ethylene glycol, in fact, went up 100 per cent. These are the wholesale figures, and to Dow's credit they gave them to our researchers. On November 17, 1978, the wholesale price was 77 cents a litre. It went up to \$1.53 a litre, which is 99 per cent, by May 18, 1980. Over a period of 18 months, it went up 100 per cent.

The official in charge of marketing told us on the phone that they ran into consumer resistance—the other company went up the same amount at the same time—so they lowered it back down to \$1.36, which was a 75 per cent increase in that 18-month period of time. The obvious inference is that there is no competition between those two, or very little.

Another aspect of this, of course, is that it is made out of oil and natural gas. The increases of those products in the United States were greater than they were here, yet the price in the United States of ethylene glycol is half of what it is here, where we only have two companies.

I could go on to salt. We have only three salt companies supplying the road salt in this province and they made identical bids for the last 15 years in the price of salt to the municipalities. Mind you, they have a different transportation charge, but the price of the salt is identical. Last year all three companies bid \$18 a ton for road salt. There are only two companies which provide table salt in this province and their prices are identical.

I am suggesting to you, Mr. Minister, that if you are really interested in the free enterprise system, you as a minister should be investigating these things and bringing them to the attention of the federal Minister of Consumer and Corporate Affairs and, what is more, giving the necessary support to the federal government so that it can do the job that is necessary in investigating and prosecuting combines and ensure that competition continues to exist.

I have given you these examples. I could go into much more detail on several others.

Mr. MacQuarrie: Have the municipalities not complained?

Mr. Swart: Yes, they have. The municipalities have complained repeatedly to the federal government.

Mr. MacQuarrie: There was a deputation both on salt and culverts.

Mr. Swart: Yes, and in both cases—

Mr. MacQuarrie: In culverts there was an investigation.

Mr. Swart: You are right on. They have complained continually and the federal government says, "We do not have the power under our present competition laws, combines legislation, to prosecute and win the prosecution." I am going to come to this in a minute. That is exactly what the government is saying to the municipalities all across this province that have written in. The Ontario Municipal Association wrote to the federal government on this matter of salt.

Mr. Philip: It is a crime that our federal government cannot intervene. They look to the United States for everything else, but they cannot look to the United States for the anticombines legislation. Down there they would not get away with the kinds of things that the big companies are doing in Canada; they would be in court.

Mr. Swart: I am going to come to that in a minute. This lessening of competition has been taking place over the last three to five years, particularly the last two or three years, and again I could give to you details on the number of mergers and so on, not just in the milk industry but in many others.

11:40 a.m.

The profits of corporations have been increasing dramatically. Statistics Canada shows that in 1978 profits went up 24.6 per cent; in 1979 they went up 45.2; and in 1980 they went up 12.7 per cent. That is a compound increase in profits of 100 per cent in three years. In the last two years alone it is a 60 per cent increase in profits, while at the same time the average standard of living in this nation and in this province has been dropping.

StatsCan points out that the average family income increased in 1979 by 8.2 per cent and in 1980 by 9.7 per cent, while the consumer price index went up by 9.1 per cent in 1979 compared to the 8.2 per cent income increase, and by 10.1 in 1980 compared to the 9.7 per cent increase. In fact, in Ontario the average family income went up by only 6.5 per cent in 1979, although it increased last year by more than the national average. But it is true to say that in Ontario in

the last three years, and in Canada generally, the average standard of living has dropped. We would argue about percentages, but there is no question about the fact that it has dropped. At the same time, these profits have increased. That in itself should be a cause for concern whether the competitive system is really working and if the people are getting a fair deal.

Not only, Mr. Minister, have you come out in your statement to this committee in favour of deregulation, but you have come out against any effective federal laws to assure competition. You have made those statements, not only in your opening remarks here, but on September 3 in your statement in Quebec at the conference of the ministers of consumer affairs of the various provinces, I believe it was.

The federal government, as you know, is proposing to toughen the competition laws.

Mr. Philip: They have for the last 10 years.

Mr. Swart: For the last 20 years, they have been proposing it. They made an effort 10 years ago, and I have the documentation here. There was tremendous opposition put up from the corporations. In fact, in 1972 the contributions from the corporations to the federal Liberals in their campaign dropped dramatically. That was attributed to the fact that the government was trying to toughen its anticombine legislation, and it may be one of the reasons the Liberals lost many seats. Because of the drop in corporate contributions, they did not have as much money to spend in that campaign as the Tories in Ontario had to spend in their last campaign. After that 1972 election, they dropped off. Now the government is trying to introduce legislation to toughen up things.

Perhaps at this time I could just stop, Mr. Chairman. I am wondering about the time we have left for the leadoff speeches.

Clerk of the Committee: At one o'clock we would be approximately five hours on the first vote.

Mr. Philip: How much time was taken with the Liberal leadoff?

The Vice-Chairman: You are allowed 73 minutes each, according to the division of time between yourself and Mr. Bradley.

Mr. Philip: How much of that has been used?

Clerk of the Committee: Mr. Bradley used 63 minutes.

Mr. Philip: How much has Mr. Swart now used?

Clerk of the Committee: Mr. Swart started at 11:11 a.m.

Mr. Swart: So I can go until 12:24. I just wanted to get it clear.

The federal government is proposing substantial changes in the anticompetitive legislation. At the present time, I am sure you are aware, Mr. Minister, to be successful in prosecuting combining or price fixing, the federal government has to show that there was the intent to lessen competition unduly and that it was lessened unduly. They also have to show public detriment. They cannot just show two of these things; they have to show all three: public detriment, the intent to lessen competition, and that it was lessened unduly.

The proposals put out by Mr. Ouellet, the Minister of Consumer and Corporate Affairs, are that, instead of a present requirement beyond a reasonable doubt, the courts would decide whether or not the merger is likely to lessen actual or potential competition significantly. That represents a major and a necessary change.

He proposed to set a specific, as yet unknown, limit or ceiling on the percentage market share not to be exceeded by companies contemplating major mergers or takeovers. In other words, it would be prevented if they would have above a certain percentage of the market, which could be 50 or 75; that information is not yet available.

He suggested setting a particular level of assets as a guideline for which companies must submit advance pre-notification of merging or taking over, to be screened before proceeding by the director of the combines department.

He proposes that only in horizontal mergers, acquisitions involving competitors in vertical mergers or acquisitions involving customers and suppliers of a certain size should they pre-notify the director of such merger. He proposes that under present laws companies be not guilty of conspiracy unless they have intended to lessen competition unduly. He proposes to eliminate "unduly" and replace it with the word "intent."

Those, with one other, are the main proposals, as you well know, Mr. Minister, that are being put forward by Mr. Ouellet. The other one proposes that participation in international cartels be tightened under the criminal law.

What has your reaction been to that, Mr. Minister? I have the speech you made in Quebec. What you say about those proposals, to tighten up the competition laws is: "This policy will break the back and spirit of Canadian business. . . We do not see a compelling need for substantial change in current combines legislation. Nor do we consider a new competition policy to be a priority at this time.

"...as we understand the proposals, any company or group of companies above a predetermined percentage or statistical threshold of market share would be prohibited from certain so-called anticompetitive practices."

Then you state: "A threshold level in the 70 to 80 per cent range would automatically designate many of Canada's top corporations—in the iron and steel industry, in the auto manufacturing industry, in the tobacco, glass, electrical wire and cable, and in the brewery industries, in many specialized manufacturing sectors and so forth—as being undesirable corporate citizens in the federal view."

What you are saying is that there is no disadvantage to the consumer if a corporation controls 70 or 80 per cent of the market. You also say: "We also object to the presupposition that just because a company is dominant in its industry, its market power is therefore detrimental to the consumer interest. Large and dominant companies are increasingly sensitive to the dangers of antagonizing not only governments, but also their own suppliers and customers." That is a naive statement if ever I heard one. Then you state, "Market share, as already noted, is not a logical or fair test."

Mr. Minister, one must assume when you state that, even if they own 100 per cent of the market and even if there is only one company left, that is not detrimental to consumers. Then you say, "We believe that conscious parallelism should not be subject to the conspiracy provisions."

11:50 a.m.

I hope in your reply you will state exactly what you mean by conscious parallelism. Do you mean that if they decide consciously to set prices identical, then they should not be subject to the conspiracy provisions? Where is all of this theory about competition?

Mr. Philip: There is none.

Mr. MacQuarrie: That is what I call price leadership.

Mr. Swart: Price leadership? That is called price conspiracy if two companies get together to set identical prices.

Mr. MacQuarrie: No. If you consciously follow a leader in the field, that is price leadership.

Mr. Swart: You conclude, Mr. Minister, that for these and other reasons Ontario must oppose the proposed competition policy of the federal government.

Hon. Mr. Walker: You realize, of course, that the biggest advocates and the most frequent users of conscious parallelism are those bargaining units that set their wage rates according to the next. That is identical. That is conscious parallelism.

Mr. Swart: Mr. Minister, are you trying to say that there is nothing wrong with unions negotiating the same wage rates and that gives a right to companies then to set the same prices?

Hon. Mr. Walker: No. That is simply the definition of conscious parallelism.

Mr. Swart: But you do not imply it here. That is not given in the context of wages.

Hon. Mr. Walker: It sounds to me as if you have one standard for one and one standard for another.

Mr. Swart: There is a very real difference. They have to bargain against the employer to get theirs. When you have conscious parallelism, you are talking about prices. There is no bargaining with anybody. You do not even want to intervene. You want deregulation, no control whatsoever. Conscious parallelism can set the price any place they like.

Hon. Mr. Walker: I do not think you should be as critical as you are of the unions' approach.

Mr. Swart: I am not a bit critical of the union approach and you know I am not critical of the union approach. That is a red herring and you know it very well.

Mr. Philip: How do you condone price fixing? That is what you are doing. You are just condoning price fixing.

Mr. Swart: Yes. You are condoning price fixing.

The Acting Chairman (Mr. Mitchell): Mr. Swart, would you continue with your statement, please?

Mr. Swart: Yes, I will. I am very pleased to.

In that statement—nine and a half pages—do you know you did not once mention the word "competition"? You did not once state that there was an advantage in preserving competition. In a nine-page statement, a philosophical statement, there is not one word about preserving competition. It shows how far you are to the right.

I have a copy of an article from the Washington Post headed, "Adverse Effect on Western System," written by a well-known person, John Kenneth Galbraith. He deals with this whole matter of how the right-wing conservatives are moving away from competition. This has been

their bible over the years—competition and the competitive system. They mouthed it in every sentence and now those very same people are moving away from it.

John Kenneth Galbraith says in the Washington Post on August 18, 1981: "Liberal and conservative economists have differed in recent decades over the extent of the concentration and the depth of the resulting danger." He is talking about mergers. "Liberals have come up with calculations showing that in the United States a comparative handful of the giants now account for between half and two thirds of all private production.

"Conservative economists, citing the same figures and accepting the same basic theory"—of competition—"have concluded that things are not quite so bad. But no one, or almost no one, in the free enterprise tradition has applauded the trend"—the trend to the mergers.

"With less concern for the association, they would agree with Friedman"—and they are talking about the conservatives now—"

Mr. Philip: That is the fellow who ruined England, is it not?

Mr. Swart: Yes. "—leader of the conservative monetarist school of economics, that monopoly and oligopoly, the end products of the concentration, are the greatest danger to the consumer. . ."

"Generations of conservative economists at the University of Chicago and elsewhere were educated by the late Henry Simons and his brilliant and uncompromising tract, *A Positive Program for Laissez-Faire*, to the belief that a vigilant government and citizenry could defend competition and the market against monopoly and the ultimate debacle.

"Simon's students, those of the revered Frank H. Knight, his colleague, and those in further descent therefrom made the competitive market a totem; indeed, no totemic symbol ever so marked a tribe.

"Coming now to the present, these are the men who are now prominent in public position or moral suasion in the Reagan administration. From none elsewhere in the world could one expect a more powerful defence of competition and the market"—than from these people.

"Coinciding with the arrival of the dedicated defenders of the competitive market and the entrepreneur in Washington has come a terrific assault on both. It is, quite probably, the most massive such attack in history." He is referring, of course, to competition.

"The papers each day tell the story. During

the first six months of this year, the dollar value of American corporate acquisitions at \$35.7 billion was nearly as great as for all 1980. And this was before the recent really great acceleration. Even the largest companies—Conoco, the ninth largest oil company—are no longer immune.

"And this assault—this merger and takeover frenzy as it is being called—is occurring with the evident approval of the very administration on which the hopes of the defenders of the market and the entrepreneur were centred."

I quote that to the minister because, from his statements, that is exactly his viewpoint. He is no longer concerned about competition, to control the price to the consumer, and he rejects government intervention. As the member for St. Catharines (Mr. Bradley) pointed out previously, it is time that ministry was split. You are there to serve corporate power. You are not there, nor will you exercise power, to give any protection to the consumer. There is overwhelming evidence of the need for competition or government intervention.

In the United States, as I am sure you are aware, the federal government agency has taken the biggest cereal companies to court accusing them of charging 15 cents on the dollar too much for cereal because of collusion between them. We have the same companies here in Canada doing exactly the same thing. In fact, as I pointed out in the Legislature, their prices are much higher here than they are there.

In May 1980, the chief economist of the United States Department of Agriculture estimated that American consumers were probably paying over \$16 billion a year too much on food because of industry concentration at the food-processing level alone. A few giant firms control the market. Governments in Canada admit the Canadian food industry is even more concentrated than its United States counterpart. That means Ontario consumers may be paying up to \$850 million every year too much for food. That ripoff can ring in at about \$400 a year on the family grocery bill.

Mr. Ouellet stated back on June 15, 1981, and I quote, "Canada has the highest concentration of corporate power of any of the western democracies but the weakest anticomcombine legislation." He was speaking to the Chamber of Commerce in Montreal last March. I want to quote from this, Mr. Chairman, because I think it is rather important. Mr. Ouellet is a minister of the federal cabinet, and nobody can accuse that cabinet of being left wing. Speaking on the need for toughening anticomcombine legislation, he said this:

"Time is short, since we are presently witnessing a new outbreak in the area of mergers and acquisitions in the country. If this phenomenon should continue for another three or four years at the same pace, the control of the entire Canadian economy could literally be in the hands of six or seven."

12 noon

Robert Bertram, who at that time was the director of the federal anticomcombine branch, was quoted in the New York Times as saying, "What we will have, if this march of increased concentration continues, is a national oligarchy in which a few dozen people will interact to bargain about the economic future of millions."

Mr. Chairman, I have here, from which I could quote, editorials in several of the independent papers around this province which state exactly the same thing: the need for tough competition legislation at the federal level. Here we have the Minister of Consumer and Commercial Relations in Ontario siding with the corporations to do battle against this needed improvement in the anticomcombine legislation.

I also have here a rather deep, comprehensive article by Mr. C. Green, who is head of the department of economics and centre for the study of regulated industries at McGill University. He has this to say about competition policy:

"Given the size and structure of Canadian markets, Canada's protective commercial policy and the importance of having a substitute for direct regulation, Canada can ill afford the emasculation of its competition policy tool. Yet such a loss is clearly threatened by recent Supreme Court of Canada decisions in anticomcombine cases. In the face of these judicial setbacks and some high profile mergers, e.g., Hudson's Bay and Simpsons, the perennial attempt to amend or reform the anticomcombine laws is again under way."

Then he also says in that same article: "Canadian anticomcombine policy is at something of a crossroads. Competition policy is needed more than ever—if for no other reason than as an alternative to the rising tide of direct regulation." There, Mr. Minister, he deals with your problem, that you want neither. He and everyone else recognizes you must have one or the other.

"However, the legislative wording and constitutional limitations rob Canadian competition policy of much of its economic content and social usefulness. Moreover, the recent entrance of the Supreme Court of Canada into the fray—three major decisions in the last five

years—has rendered Canada's merger law inoperative and has made the issue of intent... a major stumbling block in conspiracy cases." Then come these significant words: "It will be a test of the degree of reason in Canadian public policy whether the necessary reforms to competition policy can be made without creating insurmountable political roadblocks."

Mr. Minister, you are one of those chief roadblocks to reforming that competition policy.

I could quote the number of mergers which have taken place in Canada in the last several years. I will not take time to do that, Mr. Chairman, but they run traditionally in the neighbourhood of 400 to 500 mergers in the last three or four years in this nation. What is the most serious part of it now is that the merged companies are being merged once again. This whole process is taking place three or four times, so every merger is a combination of several other mergers.

I am sure we are well aware of what happened because of the weakness of the competition policy with regard to the Atlantic Sugar companies, where they were fined for setting a uniform price. They were fined \$750,000. When it was taken to the Supreme Court it was thrown out because all three things had to be proved: that there was the intent to lessen competition; that competition was lessened unduly; and the third item—which temporarily has slipped my mind; I will come back to it. Two are not good enough, you have to prove the whole three factors. This has been a rather recent ruling.

Mr. Philip: Some of us who knew how poor the laws were and knew that they would fail in the court made a lot of money by buying shares before the court decision and selling afterwards.

Mr. Swart: K. C. Irving owns all the English-language newspapers in New Brunswick; he took them all over. He was taken to court and that was also thrown out on exactly the same grounds.

We know what happened with regard to the oil companies, where they have been able to rip off \$12.5 billion from the Canadian consumers. That is before the courts. When that revelation was made back on March 4 of this year, this comment was made by the combines investigation, "It was decided that a conviction was unlikely under existing combines legislation," which the government has been attempting to strengthen for the same 10-year period.

I am going to conclude by saying there is no doubt, if we have any concern about the

consumer, that legislation to ensure competition is desperately needed. As pointed out by Mr. Ouellet, we have the highest degree of concentration of any of the democracies and we have the weakest antitrust laws.

Under the legislation in the United States, none of these—whether we are talking about the oil companies, the sugar companies or K. C. Irving—could have taken place there. In fact, the United States has taken action to break up some of the big companies. There could not be the concentration there.

Yet we have here the attitude of the Minister of Consumer and Commercial Relations. I would expect him to come out one day and say the transport commission should be abolished so Bell Canada can set any prices they like. I would expect him to say the Ontario Energy Board should be abolished so the energy companies, the natural gas companies and so on can set any rate they want. You come out on deregulation, but at the same time you come out with a policy to ensure there is no competition, to kill competition.

How, I ask you, Mr. Minister, are the consumers going to be protected if you refuse government intervention and you refuse to promote competition laws that are so necessary in our society? You are over at that extreme right, as was pointed out by Galbraith in that article. You are knuckling under to the corporations and you are playing their game against the consumer.

I want to say to you that I am serving notice on you from the NDP that we will fight vigorously your attempts at deregulation. We will fight for the kind of things we have already proposed, that there should be a fair prices bill in this province so you will be required to investigate on an ad hoc basis companies like the dairy companies, like the companies that produce and sell ethylene glycol, and a great variety of companies. We need that fair prices commission in this province and you have power at the retail level to implement it. We need a public advocacy to get fair decisions from the energy board and Bell Canada, a public advocacy as they have in many places in the United States.

I want to say to you that we are going to go on fighting for the kind of reforms that are needed so that consumers have protection. We believe there is a great need for competition and that if there is genuine competition, it is a very major force in protecting the consumer. It may be a hell of a way of setting national or provincial

priorities, but it does give price protection for the consumer and we are going to fight for that kind of competition.

12:10 p.m.

We also realize in today's society, because of the concentration of power, that in many areas there is going to have to be government intervention. We in this party are prepared to do it and we are going to be pushing to see that that twin protection is going to be given to the consumers of this province.

Mr. MacQuarrie: How about abolishing marketing boards?

Mr. Philip: Is that what you are advocating?

Mr. Swart: Is that Conservative Party policy?

The Vice-Chairman: Mr. Minister, would you like to respond to the leadoff statements by the critics of the two opposition parties?

Hon. Mr. Walker: Yes, Mr. Chairman. I will try to be as brief as I can because I think we run out of time at one o'clock and there may be some general questions that other members may wish to raise in respect of the administration.

The Vice-Chairman: I believe, Mr. Clerk, one o'clock would bring us to the end of the time allotted for vote 1501. Is that correct?

Clerk of the Committee: Yes.

The Vice-Chairman: Perhaps we can deal with vote 1501 at one.

Hon. Mr. Walker: Let me go first to the last speaker and the points raised in respect of the competition act as it seems to flow now. A great deal of Mr. Swart's time was spent on that.

We know, of course, that the federal minister, Mr. Ouellet, did distribute a set of very broad proposals for revamping that federal competition legislation which really is the Combines Investigation Act at the moment.

In the proposals he sent out to us, which was all that we had to work from, questions of merger, monopoly prosecutions, would be moved from the criminal law to the civil law and new threshold limits on market share in monopolies and mergers would be imposed, and mergers of companies over a certain size would require prior notification. I submitted my comments to the ministers' conference and you undoubtedly have a copy of the speech there. Basically, I said that the proposals are vague, arbitrary and interventionist, and that the underlying philosophy is identical to what it was in 1977 when Ontario opposed it previously.

At the conference I made very strong argu-

ments for having adequate competition as the entire basis on which our society is founded, but the manner in which it has been gone about in the proposals—

Mr. Swart: Not one word in your speech about competition.

Hon. Mr. Walker: Well, we were at the conference and I made those comments there. We were given certain aspects to look at, and that is what I looked at. I argued against this rather artificial definition they attempted to impose. You may not be aware of it, but there are a lot of consumer benefits that would be destroyed under the proposals as they were submitted. I felt quite uncomfortable with the aspect of destroying these existing consumer benefits.

The proposals would prohibit such practices as selective price cutting which was designed to restrict the growth of a competitor. Is that not what competition is all about? One firm lowers its price to attract business away from a competitor, and conscious parallelism allows another firm to lower its price in turn. We are in trouble, by your definition.

Mr. Swart: Mr. Chairman, I wonder if the minister could turn over to us in this committee the rest of the speech he made at Quebec. The nine pages I have do not make any reference to that at all.

Hon. Mr. Walker: I made a speech at Quebec and those were comments I made, but in the process of the discussion I raised other points.

Mr. Philip: So they were not included in your speech?

Hon. Mr. Walker: No, the speech is what you have. I am not sure if it was nine pages or not, but it was something in that range. I am just citing some examples, as you must realize, when you are talking about conscious parallelism—

Mr. Philip: It is interesting that anything that important would be included in afterthought comments, rather than in the main body of your speech.

Hon. Mr. Walker: You have found many things interesting in our ministry and that perhaps is one of them, but conscious parallelism is something you should be careful to define because I think you are cutting off your nose to spite your face.

Mr. Swart: We were talking about conscious parallelism in prices and that is what you should be talking about.

Mr. Philip: A conscious oversight.

Hon. Mr. Walker: By your conscious parallelism, of course, you would prohibit the move by Loblaw's today to be parallel to Miracle Mart. Miracle Mart announced a substantial decrease in food prices, to be followed by Loblaw's. Conscious parallelism would prohibit that.

Maybe you want to do that. I do not think that necessarily is the thing to do.

Now, another thing, the provisions prohibiting fighting brands—you know what I mean by fighting brands?

Mr. Swart: Of course.

Hon. Mr. Walker: —could result in the banning of no-name brands and similar products which are designed to attract business away from competitors. We are quite concerned about that aspect. Really, we are saying that the federal government should be addressing the real consumer issues, which are frankly inflation and high interest rates, and spending a little less time on some of these other things that will attempt to restrict business.

Canada is a very interesting country, very diverse, very broad, and geographically requires a special type of business. We want our companies to go big in the export area. We want them to compete on an international scene and then, by the threshold approach, you would end up restricting the approach they would take. We want them to compete and be able to compete and that is extremely important to us. Canada is unique in its size, its geography and the fact that what we produce here has to compete with giants below the border. I think it is extremely important.

It comes to mind when I think of Bell Canada and Northern Telecom and their deal with Saudi Arabia, that \$2 billion contract there. You would break them up under your proposals. We think, frankly, that consumers are far more concerned with business practices than the size of the business. Really, the consumers would not benefit from inefficient businesses, some of which would end up being created by your proposal.

At that federal-provincial ministers' conference, I strongly supported the concept of competition, of course. This was reflected in the conference communique, which presumably you do not have; you did not cite it this morning when you were talking. You told me you were going to balance off your praise and condemnation. You have not given any praise yet.

Mr. Philip: It is so hard to find.

Mr. Elston: There was no commitment by the NDP.

Mr. Swart: I did not say that, but in fact it was an appropriate balance.

Hon. Mr. Walker: It really argues that we should be strengthening the confidence of Canadian business and not contributing to the economic uncertainty. That is what caused us a lot of concern about the proposals that were raised. In the proposals, in instances where the federal government believes that competition in the marketplace has been diminished, the emphasis should continue to be placed on a compiling of evidence and proving their case in this respect, not on arbitrary measures of market share or asset size.

If a case cannot be proven through traditional channels, it is not warranted. The proposals that we were given would place limits on market share permitted. But how is the federal government defining market? In the media it is just newspapers in a certain community or region or province; plus radio, plus TV, plus magazines and journals. They have a very interesting approach to this whole question of market share. What is the market share? What is the threshold?

What about the situation where a firm would close down, bankrupt, throwing many people out of work if it were not saved by some merger agreement? Would we want to prevent mergers under such conditions due simply to the contravention of that threshold concept? Surely even you guys cannot support the threshold concept? There is nothing magic about one percentage of a market share or another.

Any arbitrary measurement of size will inevitably capture some companies which pose no threat to competition, while excluding others whose activities may be detrimental to competition. This is certainly no way to go about it. It is sometimes advantageous for a small company to merge with a larger one. Small businesses could be prohibited from doing it if the market size of the merged company exceeds the limit established by the government.

We just feel that they are on the wrong track when they attempt to come up with some approaches similar to the threshold concept.

I was interested in your proposal, of course; you have reiterated your fair prices commission, fixing prices. In effect, you want one half of wage and price control, which I guess is price control.

Mr. Swart: You know that is not true; ad hoc, you know that.

12:20 p.m.

Hon. Mr. Walker: Ad hoc or otherwise, the fact is that in your bill you have some proposals which leave a great deal to be desired.

I was quite fascinated by your discussion of milk again. You keep citing Silverwood's and Becker's. Their money primarily is not made from the milk. You know that their money is made from nonmilk activities.

Mr. Swart: Will you table the evidence on that?

Hon. Mr. Walker: Walk into a Mac's milk store and look around you—

Mr. Swart: Will you table the evidence on that, that it is not made on milk?

Hon. Mr. Walker: You know if you can see lightning and hear thunder, you will be able to figure it out if you walk into a Becker's or a Mac's milk store.

Mr. Swart: Have you seen their financial statements to prove that?

Hon. Mr. Walker: Have you been in their stores?

Mr. Swart: You have made a statement that their money is not primarily made out of milk. Will you table the evidence to prove that?

Hon. Mr. Walker: Just go in their stores and look and you will figure that out.

Mr. Swart: I do not know what they are making, and neither do you, on those various products. Will you table evidence to prove it? You cannot do it.

Hon. Mr. Walker: You made the statements. You are the one that should—

Mr. Philip: You are the minister. You made the statements.

Hon. Mr. Walker: Excuse me, the statements were made by Mr. Swart.

Mr. Philip: No, you made the statement. You said that they were not.

Hon. Mr. Walker: You look at the Silverwood's profit performance. We took a look at the Silverwood's profit performance. I suppose it might impress you to know that there is a loss for the first six months of the year. How does that fit into your equation?

Mr. Swart: Was that on their milk or was that on other commodities?

Hon. Mr. Walker: Now, I guess you would measure it both ways. You cannot have it both ways. You are saying on the one hand it is not the one side—

Mr. Philip: We cannot measure it unless you table the information.

Hon. Mr. Walker: Listen, only one should

talk at a time, Mr. Chairman. I am prepared to yield the floor entirely to Mr. Philip, who has a statement to give.

The Vice-Chairman: No, you carry on, Mr. Minister.

Mr. Philip: That will be done next year after the procedural affairs committee deals with Mr. Williams' and Mr. Treleaven's sayings of the other day.

Hon. Mr. Walker: I certainly like your formula, but what you are suggesting, Mr. Swart, the profits of the good years come out of the milk and the losses come out of the other in the bad years. You cannot have it both ways.

Mr. Swart: I am saying right now they are now all very profitable on the milk and you do not have any figures to prove otherwise.

Hon. Mr. Walker: Mr. Bradley raised a number of interesting aspects; one involved the question of urea formaldehyde foam insulation and we had some significant discussion of UFFI at the federal-provincial conference. I do not think you are suggesting that we are responsible for any form of compensation. I am sure that is not what you are proposing and we would concur entirely with that.

All of the ministers at that conference made significant protest over the question of urea formaldehyde and raised a great deal of concern. I think our concern involved the very question of testing. We wanted really every home that was involved to be properly tested.

Of course, as you know, in Ontario the Health ministry, which is our lead ministry in this case, is now in a comprehensive testing program to ensure that anyone who wants their home tested can have that done. That is occurring now.

Our general view is that the federal government should be compensating those who are retrofitting their homes. I noticed just the other day in the newspaper that under the Canadian home insulation program now, contractors who install insulation have to be licensed—or registered, I think is the word they used—with them. They have to be qualified.

There is a lot yet to be proved in the area of urea formaldehyde, but I gather from the information I have that most of the problems centred around improper installation. We were certainly concerned about urea formaldehyde as it related to the Ontario Building Code. In fact, the schedule was not permitted to be put in the Ontario Building Code; it was specifically rejected by us.

Mr. Bradley: How much clout does that have? Obviously it has happened, so I take it they can proceed, regardless of whether it is in the Ontario Building Code or not.

Hon. Mr. Walker: You realize that our system is not such that it prevents the use of something. It is not a prohibitive code; rather it is a permissible code.

In dealing with Mr. Ouellet on this matter, he basically said that the door was still open to technical and financial assistance, but they would have to await the results of the testing program and this board of review he said was floating around the country. He said then he would be available by November 30, but a recent article now suggests it is going to be a month or two later after that before he is in a position to do something.

We think the federal government is accepting its responsibility in this area—it did encourage it—and we are satisfied that, for the moment, there is nothing further we can do as a province, other than to continue the pressure which we have attempted to apply. But all of the provincial ministers made the same assault on the federal government on this question back in September. It is my impression Mr. Ouellet accepted the area of responsibility, although he did not quite come out and say it. But I think we will see a fair amount of activity there. Of course, they are still trying to prove what the damage would be and whether there is a health hazard.

Mr. Bradley: I notice in the United States that there is some question of that. Certain states have not been nearly so hard on it as we have. In fact, I saw that in some jurisdictions—it is either the whole of the United States or certain states—there was not even a ban on it yet. So it bears out what you are saying about further testing.

Hon. Mr. Walker: No one is really sure just what the problem will be, or whether anything serious is created as a result of it. There are a lot of good suspicions; suspicions are not for me to discuss. If I had it in my home, I would be very concerned.

In our own ministry, we had a lot of reservations about UFFI as an insulation, really for three reasons.

It has a propensity to shrink and crack, which reduces its insulating value. We wondered whether it had any insulating value, because it has to be properly mixed at the site. If it is not properly mixed by appropriately qualified people,

under the right temperature circumstances I assume, then it does have this shrinking and cracking tendency. Of course, when it shrinks between the studs and the wall it just narrows down and suddenly has no value. All it is is a block and the wind or the cold would just simply edge around the outside. So there are real problems from that point of view.

We found it had a tendency to break down over time, and that is the main problem; I gather when it breaks down it emits an unacceptable gas.

Also, the flame-spread rating was apparently unrealistic. It was said it could inhibit flames spreading and act as a fire retardant. In fact, we found that was quite unrealistic.

Mr. Philip: Is that also true of particle board, which is now being used in mobile homes?

Hon. Mr. Walker: I do not know the answer to that question. Mr. Yoneyama is probably one of the most knowledgeable people on that topic.

Mr. Philip: It would be interesting to hear, because now research indicates that people living in mobile homes, partly because they are so well sealed, may be in even more danger than people who have had urea formaldehyde installed in their walls.

Hon. Mr. Walker: My answers on that are not technical enough and I would rather have Mr. Yoneyama deal with that.

Mr. Philip: Sure.

Hon. Mr. Walker: Just to conclude the urea formaldehyde question. The press communique which came out of the conference read as follows:

"Home insulation was a priority issue of the conference. Ministers discussed at length the issue of urea formaldehyde foam insulation, which is a subject of major concern to all governments. Various initiatives taken by the governments were reviewed and all ministers recognized the urgent need to collect all necessary information to assess the scope of the problem."

12:30 p.m.

"Mr. Ouellet shared the great concerns expressed by provincial ministers for the UFFI problem and stated that before making a further decision he must await the results of the testing program currently under way and the conclusions of the board of review, established under the Hazardous Products Act to examine the validity of the ban imposed on the substance.

Mr. Ouellet declared that he expected to have results around November 30"—now obviously extended.

"He pointed out that door was still open and that he had not excluded the possibility of considering various types of technical and financial assistance. The co-chairman, Mr. Tardif, stated that Quebec is particularly concerned about the health and safety problems raised by the issue and intends to give particular attention to them."

Mr. Swart: I hope we will have time to discuss this at a later time under one of the individual estimates. I want to discuss it then.

Did you say that had been postponed after November 30? I saw something in the paper in the last day or two where he is still expected to have a report by November 30. You have some information that is not the case then?

Hon. Mr. Walker: Yes. We have some reason to believe that it is going to go beyond November 30, either in terms of getting the report, which may not be the case, or in terms of making a decision, which may well be the case.

Mr. Swart: Winter is going to be over before they—

Hon. Mr. Walker: Yes. We have put a lot of heat on them to telescope the time—and we have to telescope the time—which obviously ended up being destroyed once we had left the conference centre. But we got them down to November 30. In fact, we had them down to November 1 initially and they backed off to November 30. Now it appears to be a little bit longer than that.

I would guess it would be the end of January or February before we really hear.

Mr. Swart: Perhaps, Mr. Chairman, the minister could get more definitive information about the timing, if that is possible, because I do want to have some discussion on this.

Hon. Mr. Walker: I am not sure that we can get any more definitive information, but we will attempt to. We are dealing with an area where there is not a quick movement on the part of that government to accept its responsibility in that area.

Mr. Philip: I find some of the comments Mr. Bradley made in his leadoff statement very interesting. I do not go along with the idea of a select committee being necessary. But would it be possible, before we come to the liquor control board licensing vote, for some of your staff to put together research which has been done on licensing in other jurisdictions?

It does vary, and some of the inconsistencies and problems which Jim pointed out are interesting, but it would be useful if we had some background information. I am sure you must have pulled that together in looking at your licensing system. It would be useful if we had that a day or so before that vote came up.

Hon. Mr. Walker: We will make a note of what you have said and see what we can produce.

Mr. Philip: Either that or ask the committee chairman to have library research see if they could pull together a background paper for us on liquor licensing in other jurisdictions.

Hon. Mr. Walker: I would not object to that. Are you prepared to take on that responsibility?

The Vice-Chairman: The suggestion is that the research staff or the legislative library seek this information?

Mr. Philip: Yes, that they be requested to put together a background paper on liquor licensing in various jurisdictions so we can discuss the Liquor Licence Board of Ontario in a comparative sense.

Mr. Swart: Mr. Minister, would not people in your ministry be able to assemble this rather quickly, rather than going cold to the library staff?

Hon. Mr. Walker: As I indicated, we are going to try and do what we can. Having made a note of the question, we will try to do what we can to provide as much information in advance.

Mr. Philip: The vote might be gone. I find when I get research from ministries, sometimes they omit the studies they do not want us to have. I do not say that has happened in your ministry, but we have had occasion with the Attorney General where that was the case. Perhaps if we have both of them, then we can see what research your people have put together and see what an independent research body, like the library, even on short notice, can put together.

The Vice-Chairman: I think, Mr. Minister, you could determine what information you could pull together from your staff. Would you endeavour to pull together some of this comparative information when we come to that vote later on, we might have sufficient information available to address these questions?

Mr. Philip: Give it to us in advance, though.

Hon. Mr. Walker: Are you aborting the concept of having the chairman or—

Mr. Philip: No, I suggest that both be done, with the proviso that our library research staff are overworked at the moment. Various committees are making demands on them, and if it is not feasible in the light of their other work, we simply accept that that is the case. We have not given them very much notice.

The Vice-Chairman: It is not customary, Mr. Minister, to have the library research staff or anyone else doing work for the committee on matters—

Mr. Philip: Of course, it is done over and over again.

The Vice-Chairman: But we can inquire. I will inquire into the matter.

Mr. Philip: On a point of order, Mr. Chairman—

The Vice-Chairman: There is no point of order.

Mr. Philip: There is a point of order; you have misled the committee. It is a procedure that is often done.

The Vice-Chairman: Mr. Philip, I had not finished speaking. I was saying, Mr. Minister, that during estimates it is not common practice for the library research staff to prepare study papers for the committee; on occasion, it has been done.

I will bring the matter to the attention of the chairman. I think the chairman should approach the library staff to see if any information pertinent to the matter could be obtained. I will leave that with the chairman to take up with the committee the next day.

Hon. Mr. Walker: When does liquor come up?

Mr. Philip: I do not mind, I can get the stuff done by the library research staff by going as an NDP member and asking for it. I think liquor licensing is something that should not be a partisan issue. It is something we can all look at. It overlaps ideological lines or party lines.

I just thought that if the chairman did it it becomes less partisan. I can do it and Mr. Swart and I can use the information and look good in so doing, but I was trying to make it less partisan and thought it would be nice to have all members of the committee with the same research so we could discuss it in a nonpartisan way with the minister when that vote comes up, that is all. I do not care how it is approached as long as we get something.

Hon. Mr. Walker: We have a book in our library on licensing in the American jurisdictions and I think we can get it out and do a bit of research in there.

Mr. Philip: Let us try then with just what you find and, if that is inadequate, we can always stand down that vote for a while and ask the library to pull some other material for us.

Hon. Mr. Walker: I think we can pull together Canadian statistics on it, along with whatever we have in the American jurisdictions. We have some idea of what it is like. It is quite a comprehensive study that you are asking for. We are fortunate, I think, in having some material available to us and that might lighten the load that would otherwise be there.

Mr. Philip: The policy has always been stated that you have to legislate for the whole province. I think what we are getting into more and more now is the fact that individual jurisdictions are different. In a white, Anglo-Saxon, Protestant area in southwestern Ontario there may be different value systems than, say, in Metropolitan Toronto or Windsor. I do not know what the answer to that is, but it would be useful to find out if there are jurisdictions which in fact have a way of coping with different cultural patterns in different communities.

If there were a plebiscite in Metropolitan Toronto, I am sure that beer in the ball park would carry, but if the plebiscite was carried across the province, as government surveys show, it probably would not carry. The people in southwestern Ontario could tell the people in Toronto they cannot have beer in the ball park.

Those kinds of cultural issues are hard to come to grips with, and I think we can look at them in a nonpartisan way and discuss them openly.

Hon. Mr. Walker: We will see what we can pull together in that regard and see what information we have. When do we come on with the matter of liquor, how far down the road?

Mr. Swart: Thirteen hours away.

The Vice-Chairman: That should give you some time, Mr. Minister, to gather information. Do you wish to address further the remarks from the Liberal critic or Mr. Swart?

Hon. Mr. Walker: I am back on to Mr. Bradley's domain at the moment and I will talk about liquor generally and the question of a select committee. I am not sure a select committee is the right route to go.

12:40 p.m.

As Mr. Philip says, sometimes different parts of Ontario have varying views when it comes to a matter of liquor policy. When the beer in the ball park issue came up, you would be surprised

how many letters I got from outside Toronto. You would wonder who outside of Toronto would be interested in beer in the ball park, but letters came from Walkerton and Wiarton and areas—that is getting close to home, is it not?

Mr. Bradley: There are two interesting side-lights to that. One is that I was reading in the newspaper this morning that the New York Rangers have banned the selling of beer after the first period now to control their fans. That is interesting, but that does not happen here, of course.

The other factor to look at, and it is very brief, I got an opportunity to attend the Expo playoffs against the Dodgers—

Hon. Mr. Walker: How did you get that?

Mr. Bradley: I snuck away on the weekend. You will not find a more joyful group there. The attitude, I think, is an attitude of mind in terms of vandalism and violence as opposed to the alcoholic beverage itself.

The crowd in Montreal, even though they sell beer and a lot of it, is very different from the crowd we saw on television in New York. Without any alcoholic beverages, I think a certain portion of the crowd in New York is going to be animalistic, no matter what way you look at it. The inference did not seem to be that—

Mr. Philip: They threw mickeys at the umpires.

Mr. Bradley: One of the differences we see as sports fans is that there is more drinking when you do not sell it in the park than when you do sell it, and it is hard stuff with very little mix.

People looking at controlling the amount of alcohol being consumed, and at the violence and other problems stemming from alcohol, would probably find out if they sold even light beer, three per cent beer, the Molson Trilite kind of beer, in a ball park you would probably have fewer problems from drinking than you would otherwise. I think we all recognize—

Mr. Philip: My wife was waiting for me in the car for about an hour and a half as I was taping the Provincial Affairs broadcast on Friday night.

Hon. Mr. Walker: You must have had to repeat it about eight times.

Mr. Philip: No, we did two tapes, but it takes a while to put on makeup and so forth. She says it is fascinating to watch them come along. The fans would be putting their mickeys in various places before they passed through the turnstile and went into the auditorium. Some, she said,

were bombed before they got in. Two guys got out of a car, peed against the side of the building, then hid their mickeys and went in—really a very weird kind of behaviour. It may not be weird, but it is really not something that she is used to watching. That is what is happening.

Hon. Mr. Walker: The whole area of beer in the ball park raises some interesting questions, because it, probably more than anything, brings into confrontation the views of, as it were, rural-based Ontario and urban-based Ontario.

Sometimes it would be easier to make decisions involving the beer in the ball park if it were not for the fact that the moment someone said, "Okay, all right, in the stadium of the Blue Jays," it would not be 20 minutes before the application from Mr. Ballard arrived on our desk, inviting it for Maple Leaf Gardens; and only shortly thereafter would it be—

Mr. Swart: With his drag he would get it.

Hon. Mr. Walker: I do not know about that. The next thing, of course—

Mr. Philip: There is a difference, though, between sitting in the sun on a warm day having a beer and being in a—

Hon. Mr. Walker: Yes, but it is pretty hard to distinguish between the two, and not all baseball is played on warm days now. You could perhaps argue that—

Mr. Philip: I have never had a great compulsion to drink at a hockey game, but I would enjoy a beer on a hot day at the races or some other activity.

The Vice-Chairman: Perhaps, Mr. Minister, you can discuss this in greater detail when that vote comes up. If you want the opportunity to respond to other general observations or criticisms of the critics, you should proceed.

Hon. Mr. Walker: Yes, well—

The Vice-Chairman: I am sorry. Mr. Mitchell, did you have a point you wanted to raise?

Mr. Mitchell: Yes, thank you, Mr. Chairman, within the area that we are discussing at the moment. At the time I had the opportunity to read the minister's statement and for the members of the committee to see the films, certain questions were raised with regard to what films had been produced, and had indicated that we saw no reason why we could not provide the members with a list of those programs. But there were some other questions raised with regard to availability of the films to members, whether in

fact they would be available to be used in their community telecasts, and what the editing restrictions and so on were with regard to them.

I realize they were not all produced by the Ministry of Consumer and Commercial Relations; in fact, some were provided by other ministries.

The Vice-Chairman: There was a consumer law series, two of which we saw the other day.

Mr. Mitchell: I was wondering if perhaps you would care to comment on that, and whether the list of the programs that have been produced is available.

Hon. Mr. Walker: There is certainly a list available and we can provide that. Sharon Paul is our ministry's director of communications, and I might just ask her to come and take the microphone. She might answer for you. I think Mr. Bradley has some interest in the films, as well as Mr. Swart, I believe. I was not here during the period you were watching them.

Can you just use the microphone right there, Mrs. Paul?

Mrs. Paul: As I mentioned last week, I do have the list now for you. Four of these series are produced for and with our ministry, but about six or seven ministries are involved.

The titles are: Buying a House, for CCR; Family Law, and Child Abuse, Attorney General; Buying a Car; Trespass and Occupier's Liability; Minor Offences; Small Claims Court; Race Relations; Injured Workmen; Police Complaints; Legal Aid; Work Safety; and Health Safety. Those are the first 13 in this series, which were shown over the last session.

Just about two weeks ago we started a new series, and we have 10 of the 13 films back so far: on demerit points, equal pay, private adoption, environmental protection, jury duty, line census, criminal injuries compensation and fishing limits; then two for CCR, car repairs and consumer credit.

In our own case, we have bought three copies of each of the films for use in our library and for anyone who wants them, and we would certainly make those available. I have been checking with some of the other ministries and in many cases they have not bought their own copies, but I am going to try to get, in a co-ordinated way, one copy of each that we can put together in a central repository. They are

also available for purchase through the TVOntario system and through a cataloguing system—and that is at cost.

12:50 p.m.

Mr. Philip: What is the length of each of the films?

Mrs. Paul: Each of them is a half-hour film and they were shown originally on CHCH Hamilton on Sunday nights and then through 11 affiliated stations throughout Ontario subsequent to that.

Hon. Mr. Walker: If any of you have cable television shows it is the kind of thing you could either cut in or cut out parts of, or if your show is longer than a half hour, which is not that difficult to get in the cable business, you might be able to go into an introduction of it and a leadout from it and show the film as part of that. There is no copyright problem or anything dealing with it.

Mr. Philip: If you could get us copies of the scripts as well we could go through that and it would make it easier.

Hon. Mr. Walker: Could we get copies of the script?

Mr. Philip: I do not think you will need copies of the scripts for each member because that is a waste of money, but if we just had copies tabled with the committee, one copy of each script, then we could borrow it from the chairman.

Hon. Mr. Walker: I have brought along copies of the titles, so probably you would not have written them down quite so quickly.

Mrs. Paul: At this point I have no copies of those scripts that were produced for other ministries but I am looking for them and I will have them for the next session.

Hon. Mr. Walker: You have transcripts of our own films which amount to, what, four of these?

Mrs. Paul: Yes.

Hon. Mr. Walker: But not the transcripts for the other ministries?

Mrs. Paul: This was a co-operative effort with several ministries and I do not have the scripts for the others yet, but I will get them. And, yes, we have bought the rights for five years so we can use the film for five years.

Mr. Swart: Do you have any more detailed information on the distribution of them at the present time? How wide a use are you planning? Are cable TV companies going to be using them on their own? If they are using them on their

own there is not much point in our using them during our half hour, duplicating something else that has been done.

Mrs. Paul: In some cases, Mr. Swart, that will be on an individual ministry basis. For example, we have had some requests already from cable stations that want a particular show on a consumer area, maybe for a consumer show they have, and they will not be showing this series, but merely one or two films. Some of the requests will be going in to the individual ministries involved, so I suspect that usage will be a little bit uneven.

With the distribution of the whole series though, it is on the 12 stations and each film will be running twice. So again, that is on Sunday evenings on CHCH and then on the other 11 stations. I am told that each one of those in the series will be shown twice.

Mr. Swart: On what stations?

Mrs. Paul: I can get you that list. They are affiliates of CHCH and I do not have it with me, but I will get you that.

Mr. Swart: Oh, they are affiliates of the CTV network.

Mr. Mitchell: Just to follow up, because I had the opportunity of course to hear the questions as they were initially raised. One of the concerns raised by some of the members was that because of the time constraints on their community broadcasting, to be able to use the film they would have to edit. There was some concern expressed as to what was written into the agreement of production on the films and whether they would be able to edit and so on. What controls would be exercised over that?

Mrs. Paul: I am told that there are no restrictions on the editing. I am checking into the contract on that, but I have been given assurances that there is no problem.

Mr. Philip: Mr. Minister, may I take it that there would be no policy objection from you if we invited certain members of your staff to be on a program with us to answer some questions, because it is very difficult to just show extracts and talk yourself? For example, in a program on buying a home it might be useful to have Mr. Simpson or some other person with the resource so they can be interviewed, in a nonpartisan way because they are public employees.

Hon. Mr. Walker: There is no problem with that. That has been done by other members of the Legislature on a fairly frequent basis and certainly members of Mrs. Paul's branch have

often gone out on a communications basis and sat in on shows, sometimes on their own, sometimes hosted by someone, and not infrequently hosted by another MPP.

Mr. Philip: The reason I asked that was that I did ask one public employee, not of your ministry, who said, "No, I cannot possibly appear on an opposition member's cable TV show." So I just wanted to make sure that you have no objections to that.

Hon. Mr. Walker: I would encourage that kind of thing. I do not think it should be an inquisition-type of situation because you are not going to get too many second customers if that were the case. But in a situation where you are explaining how to go about the buying of a home and or the buying of a car, I do not think there would be any problem.

I suppose if it were abused, you would find some reluctance on the part of some of the people going out to find themselves in that situation.

It is a little bit different for us politicians. We are hired to be grilled from time to time; that is a different case. But many of these people are merely carrying out their jobs under whatever the direction is, good or bad, they receive from us. So we are the ones to be criticized. But if there is some arrangement by which they go out to the media studio, I think Mrs. Paul would be certainly pleased to set up that arrangement for you. I would recommend it be here at the media studio, because most of our people are located within a couple of blocks of here.

Mr. Philip: That's easier for us too.

Hon. Mr. Walker: That would work out quite well and I would have no serious objection at all to that.

The Vice-Chairman: I am somewhat surprised that staff have participated in the past in radio or television or any other type of shows involving elected members of this government or other levels of government. I thought there was some understanding that civil servants would not be put in the position of having to participate in shows involving elected members, for fear it would be misconstrued as a civil servant appearing on behalf of a representative of one particular party or other, and as such, might be misinterpreted and put the civil servant in a somewhat untenable position.

I am wondering if that could be pursued further as to whether there is any policy on that.

Mr. MacQuarrie had a question. But go ahead.

Mr. MacQuarrie: We had discussions this morning about the use of these films, particularly on cable television. What I had in mind was the prospect of using them for meetings of groups, service clubs or whatever within a member's constituency.

Are they available for that? Do you need special projection equipment? Will they fit in a standard projector and this sort of thing?

Mrs. Paul: At the moment the format is three-quarter-inch videotape, so a standard three-quarter-inch videotape machine would be required. We have three copies of each of our ministry's films and would be happy to make those available for such occasions. I am trying to co-ordinate so we can get other ministries' films and have one copy of each centrally located.

Mr. MacQuarrie: We could borrow them to take to our constituencies and use them there.

Mr. Philip: That film that has just been banned by the censor board, *Not a Love Story*. Is that available to select groups? Can you borrow it?

Mr. Mitchell: You made one comment the other day about the Association of Canadian Television and Radio Artists—ACTRA. Did you find that there was any problem there?

Mrs. Paul: No problem. The contract has the rights for five years.

Mr. Mitchell: So that covers any ACTRA problems.

The Vice-Chairman: Perhaps before we adjourn, Mr. Minister, you had further comments to make for next day so we could finish at that time. But did you want to speak specifically on this point before we adjourn?

Hon. Mr. Walker: I have a few comments I want to make on some of the areas raised.

The Vice-Chairman: Not on the films?

Hon. Mr. Walker: No.

The Vice-Chairman: Perhaps it would be appropriate for us to adjourn.

Hon. Mr. Walker: I agree, but just one last point on the films; the distinction I make on this is if they are to go in on an adversarial, clearly political forum, then that is not something we want to encourage.

Mr. Philip: I do not think you would want to put a public employee in that position.

Hon. Mr. Walker: That is what I mean.

Mr. Philip: It would be outright irresponsibility on the part of any member to do that.

Hon. Mr. Walker: Our job is to communicate matters relating to consumer matters. To do that we have to get to the public and any way we get to them is fair game from our point of view.

The committee adjourned at 1 p.m.

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From the Ministry of Consumer and Commercial Relations:

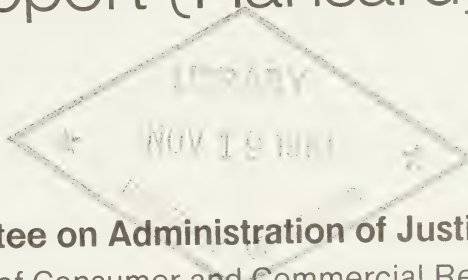
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No. J-11

Legislature of Ontario Debates

Official Report (Hansard)



Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

First Session, Thirty-Second Parliament

Thursday, October 29, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, October 29, 1981

The committee met at 4:07 p.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: We have a quorum. I call the meeting to order.

Hon. Mr. Walker: Mr. Chairman, I should like to respond to some inquiries made by Mr. Renwick, put just before the committee started, about the Ontario Securities Commission. They are in a hearing at present and I have passed a note to Mr. Knowles. He has responded that he can wrap the hearing up in about 30 minutes and be here between 30 and 45 minutes from now, along with Mr. Salter; but they are actively in a hearing at this very minute.

Mr. Renwick: That in theory would then give us an hour until 5:45 p.m., assuming that any other business before you will be completed at that time.

Mr. Chairman: Mr. Renwick, since you have particular interest in that portion, I assume that if they are not here I presume other members would agree to go on to something else and we shall come back to that.

Mr. Renwick: That is quite agreeable with me. My only other conflict will be that I shall not be here next week. That is my problem. I do not know when you are scheduled to finish.

Hon. Mr. Walker: I have asked the chairman of the commission to come over, and they expect to be here in 30 to 45 minutes from a few minutes ago.

Mr. Renwick: Within the framework of the time allotment, I do not think that I can do what I want to do in an hour. It would also mean that I would not be here next week, and unless the committee is prepared to accommodate my absence, I would have to ask that it be dealt with two weeks from today, and I do not know whether you will still be here then.

Mr. Bradley: Will you be here tomorrow?

Mr. Renwick: I can be here tomorrow so I could do it tomorrow morning. Would that be

agreeable, if could we get started this afternoon, and could continue tomorrow?

Mr. Bradley: That is agreeable to me, certainly.

Hon. Mr. Walker: I cannot answer for them, but you will have to ask them when they arrive.

Mr. Renwick: I appreciate the accommodation.

Hon. Mr. Walker: Mr. Chairman, I had just a few sentences, to continue, really, when we finished the last day; and there are a couple of matters I wanted to bring up.

A slight tangent for the moment: The Law and You tapes; we have here today 20 copies of the scripts on buying a house and buying a car, and we shall see that those are distributed later on. If they are not right on hand today, we shall have them distributed by tomorrow; that was the request of Mr. Bradley, I believe.

4:10 p.m.

The other question, I think raised by Mr. Bradley, involved the matter of companies soliciting advertising. This is indeed a problem, and I appreciate Mr. Bradley raising the question. Of course, as you can appreciate, it does not quite fall into a consumer item, and we are not authorized, by any law we have, to intervene on behalf of companies. We do not have a companies protection act. However, we have taken some liberties ourselves and become somewhat involved in the question, ostensibly under some other act.

As you know, all these solicitations that come in, these special advertising dinners, look as if they are really statements of account and that you have to pay them. There is no doubt that there is meant to be, in my opinion, a passing off; they really are intending to deceive the people who receive them. I say that word advisedly, and I say it with some conviction; they are certainly out to deceive the public. There is no attempt to avoid that.

It is a perennial problem. These companies have been sending out these phoney invoices, not just from within Ontario, but outside of Ontario, which makes another problem. They have been coming in even from outside of Canada and it is very difficult to try and capture this thing. Again, education is probably the best bet. What usually happens is that a busy secretary

receives them and processes them and ends up having them paid, and they have the desired effect. Those people who do not pay them probably throw them away; but probably two out of every 10 are paid, so they are going to make a fortune on them.

All the solicitations we have seen, at least, contain disclaimers, and they are often in very large type now, stating that they are not invoices; they have really tried to go out of their way to fall just within what they think the law is, and the disclaimers are there.

One that annoyed me the most was one that was a totally English statement, and then it had the disclaimer in French, and, while in many areas of the province it would be quite acceptable and quite recognized, there are some areas of the province where it would not be caught. The disclaimer was in French, and the disclaimer itself was a good thick paragraph, maybe seven or eight lines long. Two thirds of the way through the paragraph the sentence would be split, the French would come to an end, and the English would begin; and, of course, nobody would be able to catch that kind of thing.

We have been after the Post Office on it, and the Post Office looks at these solicitations from the point of view of being possible violations of their regulations, especially when it comes to the question of the disclaimer.

The bottom line in this is that businesses should really be much more careful and instruct their accounts payable departments to read every invoice carefully and to be especially alert to these coming in.

We wrote to 32 industry associations with whom we normally have dealings, and we asked them to warn their members about these solicitations. They have been asked to put it in their trade magazines, in their trade journals, and in their newspapers and at least alert their own clientele, their own registrants, to what is going on, and to be ever vigilant for this kind of thing. Our own registrars have also contacted their registrant representatives with the same message.

We have found in the past that most of the companies are in fact offshore companies, so we could not even really consider any legislation as being effective; but again, the real answer is to have a proper form of business awareness. They know they have been taken, and they have nothing to show for it when they get through, except that they have their name in a journal. It is just that nobody who is important receives the

journal. One would be led to believe that it is going in the yellow pages of some telephone book, but it turns out to be a book, that looks as if it could be a telephone book, that is distributed to maybe 500 people who never asked for it; but that officially meets with the requirements.

I have a couple of samples, I think, in my briefcase. If you want samples, I can show you some they are sending around, if you have someone whose attention you want to draw to these matters.

Mr. Chairman, I think that concludes my response to the questions raised. The leadoff speakers have observed that they would raise many of the points again in the appropriate sections of the votes, and I anticipate they will come up at that time and afford a greater opportunity to respond.

Mr. Chairman: Fine. Thank you, Mr. Minister. We have now completed the minister's statements, the critics' statements, and the wide latitude in discussions.

On vote 1501, ministry administration program; item 1, main office:

Mr. Bradley: I have a question on the administration program. I want to know who pays the minister's executive assistants. Do your executive assistants come out of this?

Hon. Mr. Walker: No, I pay them out of my personal pocket.

Mr. Bradley: Yes, I know that. Do executive assistants come out of administration?

Hon. Mr. Walker: They are under the main office.

Mr. Bradley: How many executive assistants do you have?

Hon. Mr. Walker: Not enough. One executive assistant.

Mr. Bradley: What is the position of the other individuals, besides your executive assistant?

Hon. Mr. Walker: Mr. Patten is an administrative assistant.

Mr. Bradley: Could you tell us what their duties would be, please?

Hon. Mr. Walker: The traditional responsibilities of Mr. Mumford, who is executive assistant, are exactly those that you would anticipate of an executive assistant. Those of Mr. Patten are primarily related to members' inquiries; in fact, almost totally. We receive something in the range of 15 to 20 requests from

members on a daily basis. Each one involves a fair amount of work although some, occasionally, are not so much work.

His time is entirely taken up in responding to members' requests.

Mr. Bradley: Are members of your ministry instructed to inform your administrative assistant when any member asks a question of someone in your ministry? In other words, if Mr. Swart wants to ask a question on the food-price monitoring program, does that get back to you through your administrative assistant? Is that his job, to find out if Mr. Swart is asking any questions in the ministry?

Hon. Mr. Walker: No, not necessarily. You are asking the question whether any of the administrative assistants have instructions from me—

Mr. Bradley: To find out from your ministry when members are asking questions of your ministry. For instance, if the person in charge of the food-price monitoring program gets an inquiry, say, from Mr. Swart, who has been very much involved in that program, does that mean that someone will tip you off that Mr. Swart is asking questions about that?

Hon. Mr. Walker: We have no person who goes and asks people whether this is occurring.

Mr. Bradley: But how is it that you always know, or always seem to know, when he asks a question?

Hon. Mr. Walker: Half the time it is probably because I am in the office when the call comes. No, these messages of general inquiry are often passed up to us, because it usually means there is interest in a subject. It must be a matter of importance to the public, or it would not be raised with us.

I like to keep an idea of what is going on there, but I also monitor as much as possible what is happening in the inquiries that come in on the main consumer calling line, so we have some idea of the consumer issues that are causing concerns. If suddenly something that has been quiet flares up, for instance, and we get 80 calls that might involve Mr. Cunningham's life or whatever, with any consumer issue, we certainly want to know what is happening.

4:20 p.m.

Mr. Gordon: We read the same paper you read to get your questions.

Mr. Bradley: No, you are not his defender.

Mr. Gordon: I am not defending him, I am just saying that—

Mr. Chairman: Mr. Gordon, you do not have the floor. Let us not carry on with the mess in the House today in the justice committee. Mr. Bradley and Mr. Minister, you have the floor.

Mr. Swart: May I have a supplementary? I would just like to rephrase that question. Are there instructions or suggestions from you or from your office to senior personnel in your ministry that when a member of the Legislature calls with a question you want to know about it?

Hon. Mr. Walker: There has never been a written statement on my part suggesting that; there has never been a verbal one on my part that would suggest that. I am not aware of anyone giving such out of the ministry.

I would anticipate that it is routine on the part of our ministry people, to bring a concern raised by a member to our attention. That means it is probably a matter of some public concern. You would not want us to ignore a matter of public concern or you would not have raised it.

Mr. Swart: I am a little confused. Perhaps you could clarify it further. Do I gather from what you say that, although you have given no instructions or suggestions, the likelihood is that they would, in fact, report that to you as a matter of practice?

Hon. Mr. Walker: We certainly do not know the ones they do not report. We do know the ones that are brought to our attention that are deemed by them to be matters of some public concern. I think the one that Mr. Bradley is raising was brought to my attention by Mr. Patten.

I know that the matter he is referring to is the one in St. Catharines involving the Canadian Henley Rowing Corporation and that, as you might expect, was brought to my attention. Mr. Patten is in the nature of a political assistant. Indeed, Mr. Patten was covering for me on the day you telephoned in my absence, which I think was the twenty-second. I presumed you would have asked for me if I had been there.

If Mr. Patten had not raised the matter with me, I think I certainly would have wondered about whether he is providing the proper service to me. He brought to my attention a matter of some public concern. As a matter of fact, it was not just a question that had modest significance. Your very question resulted in a change of the policy within the board when it was inquired about.

Mr. Bradley: Not that I want to dwell on that particular item but since you have brought it up, my question was whether your ministry was

going to afford to all organizations the same consideration that was afforded to the St. Catharines Progressive Conservative Association. We will get to that in the liquor licensing vote so I do not want to dwell on that too much, except to point that out.

But that is the question I brought to your administrative assistant's attention. The St. Catharines Progressive Conservative Association had been granted a permit and other organizations, including the St. Catharines Provincial Liberal Association, had not been.

The incident over which a hearing was to be held had occurred way back on May 30. But strangely enough, the Progressive Conservative Association was able to get a permit. I brought this to your assistant's attention. But in fairness to the chairman, I should more properly bring this up under that particular vote and not dwell on it.

Hon. Mr. Walker: There is no question that is being raised at this moment and it affects a person who falls under the main office. I am glad to respond to the matter as much as I can.

Just to be more precise about it, no doubt there was a problem with that particular organization. The St. Catharines Rowing Alumni Association—they are the owners of the club evidently—

Mr. Bradley: Yes, they are.

Hon. Mr. Walker:—and the people using it at the time were the St. Catharines Old Boy's Rowing Association. But they are intertwined I believe.

Mr. Bradley: Yes, they operate the facility.

Hon. Mr. Walker: The problem went back to May 30. I understood it involved a special occasion permit at that time. An event involved some under-age consumption, I believe, and quite naturally an issue was raised about it.

When the board found out about it—a police report came into the board on May 31, I am advised, and talked about under-age intoxicated people on the premises. There were letters back and forth between the Liquor Licence Board of Ontario and the police department, I am advised, for more information. Then, finally, the investigation was conducted by the LLBO during the month of June—the report was mailed May 31 to the board.

So on July 6, one month and six days later, which is not unreasonable under the circumstances, the LLBO sent a letter to the two organizations, the St. Catharines Rowing Alumni Association and the St. Catharines Old Boys'

Rowing Association, indicating that they were proposing to say no further special occasion permits to them.

Now, they had 15 days to request a hearing and on July 20 they did request a hearing, barely a day before the conclusion of their 15-day time period. The hearing date was set for August 27, which is generally considered a reasonable time. It was a month and seven days later which is not unreasonable. The Conservative Party had had their event in the period preceeding that, as I understand it.

Mr. Bradley: I think it was late July. Phil Andrewes was there. He would know better than I.

Mr. Andrewes: I was not there but I think it was late June.

Mr. Bradley: I know for sure it was in July because I wondered why they would have it that late with a lot of people away.

Hon. Mr. Walker: My information was that the event was held some time prior to the receipt of the information about the proposal by the St. Catharines people, which would be some time after July 6. As I say, they appealed it and on July 20 or sometime shortly afterwards, they established a date for the hearing.

Now, your application came in in the interim and it was turned down. The board has a policy that when there is a place under hearing and a hearing has been established, and one does not know what one is going to do once the hearing is held—I mean if the hearing had been held and they had decided to give no further SOPs to that place, then obviously it would not be proper to do something in the interim.

So this being one of the interim situations where the application came in before the hearing date, after the hearing had been set, and for a date that was after the hearing date—it was to be September 2 or something of that sort—in that kind of case they would just not normally do this.

They accepted the arguments of it. Why? Because it was not the St. Catharines Rowing Alumni Association. It was a separate organization. In this case it was your own, and it was granted. The St. Catharines Liberal Association was granted permission to have its special occasion permit on that event—

Mr. Bradley: I think you should make clear to the people that it was not granted permission to go from one o'clock to two o'clock in the morning, as was reported in the Toronto Star.

Hon. Mr. Walker: Well, I take no responsibility for what was reported in the Toronto Star.

Mr. Bradley: Except that in the House, Mr. Minister, you attempted—in my view, and I accept the fact you may have a different view—to convey that impression.

Hon. Mr. Walker: I honestly did not attempt to do that, and I make that very strongly as an avowal to you. I read over everything I said, and while often in the heat of discussions I may make an error, in this case everything that I did say was absolutely accurate.

Not only was what I said absolutely accurate, it reflected entirely my view which was not to transmit to you in any way, shape, or form, an impression that the one o'clock, two o'clock or the SOP connection were one and the same. I was merely trying to talk about the distinction of an exception. And yes, exceptions are made from rigid rules. Every now and then, rigid rules do not serve the public purposes. That is all I was trying to say.

4:30 p.m.

Mr. Bradley: But you did not use the example of Montreal Engineering where intervention was made, I believe, by the office of the Deputy Premier of the province (Mr. Welch). Your executive assistant, or administrative assistant, decided that you should choose that particular item instead of, perhaps, the intervention by Mr. Welch on behalf of Montreal Engineering. Is that correct?

Hon. Mr. Walker: I have never heard of that one. I have never once heard of Montreal—

Mr. Bradley: It has a different name. It was Montreal Engineering, but it is now Monenco Ontario Limited.

Hon. Mr. Walker: I have never heard of that in the time I have been in practice.

Mr. Bradley: In fact, the representatives of that organization, on the evening of the reception that was held there, made representation to several members and asked for their assistance in that regard. Yet in the House, your administrative assistants chose to hand to you only the example from me, the member for St. Catharines, and not that from the member for Lincoln (Mr. Andrewes), who I think was of some assistance—and properly so—in this matter. He had been asked about that by several members of the organization on that evening—I am certain about that—and the member for Brock, who is also the Deputy Premier of this province, but you chose, instead, on the advice of your administrative assistants, to make a political show out of it.

Hon. Mr. Walker: I only knew of the one case. I can tell you that without question of being controverted. I know of nothing involving Montreal Engineering. Your case was brought up because you had telegraphed the message that you were going to ask the question. It was in the morning newspaper.

We knew that you were asking the question; we knew what the question was going to be about. There was nothing mysterious about it; you had told us in print what was going to happen. It is logical that I would respond with respect to a matter involving yourself to show an exception, rather than an exception that might have been made for some other member.

Mr. Bradley: You chose not to use an example from members of your own party. In speaking to this vote I contend that taxpayers' money is being used—

Mr. Gordon: Mr. Chairman, it is really ridiculous that the member can go on and on and and take up all the time of estimates to talk about something he is a bit perturbed about.

Mr. Bradley: I am talking about the role of his administrative assistant and his executive assistant, who are paid by the taxpayers of Ontario.

Mr. Gordon: First you tell them you are going to hit them, then you hit them and then you tell them you have hit them.

Mr. Bradley: You will become a very good minister of defence over there. You will be in the ministry very quickly.

Mr. Swart: Mr. Chairman, why are you letting him get away with these interruptions when you stopped previous interruptions?

Mr. Chairman: He is not the first person I have let go on a little further than he should.

Mr. Swart: He went a whole paragraph or two. It is not in the way of supplementary. He did not ask for a supplementary.

Mr. Chairman: Both of you are out of order. Is it about even now; are you about even on this matter?

Mr. Bradley: It is about the main office. It is about the payments of salaries to main office, so we are still on that question.

Hon. Mr. Walker: Let me just finish by saying that because of your intervention, which we considered a valid reason for an exception, the policy changed there and other organizations also received special occasion permits while waiting for a decision on the question of the St. Catharines Rowing Alumni Association and the St. Catharines Old Boys' Rowing Association.

Mr. Bradley: You are suggesting it is because I have more power than the Deputy Premier of this province.

Hon. Mr. Walker: I am suggesting that when we recognize there is an injustice being done, we respond as quickly as possible to see that it is redressed.

Mr. Bradley: I agree it was an injustice.

I have a further question on the main office and on the role of the executive assistant and administrative assistant. Does either of these gentlemen—I am looking for an expression—keep a file on the opposition critics in the field of Consumer and Commercial Relations, or those who might be Housing critics, or those who might have anything to do with your ministry? Are they charged with keeping a file on us, so that if we ask a question in the House, you can pull something out and say, "Here it is"? Is that part of their job?

Hon. Mr. Walker: They do not keep a file, no. If you were to ask whether I kept a file, that is another question, but then I would not answer that one.

I think it is fair to say that, to my knowledge, neither my administrative assistant nor executive assistant keeps a file on certain members. We do have files for each member and when members send in queries, I imagine the whole matter is filed under their names. So I suppose in that respect, yes, they would have files, but they would be more in terms of what members might ask. We send letters to some of them.

Mr. Bradley: Because our fears are aroused by certain activities taking place in the House, may we assume that the contents of the file are only those things which relate directly to the member's role in the House and not our other activities; for instance, if one happens to go to the racetrack, that is not taken into account? In other words you are not keeping a political file on us?

Hon. Mr. Walker: We have one of our administrative assistants posted at every racetrack in the province.

Mr. Bradley: I would not be surprised.

Hon. Mr. Walker: They keep an eye out for things like that. As a matter of fact, you were at Campbellville just three nights ago and you won the triactor, as I recall, although you did not do very well in it. You can rest assured that the copious files they keep on each member contain only those things you yourselves have raised with me. But you are raising a good idea.

Mr. Bradley: I think you thought of it long before we did. We have our suspicions.

Mr. Gordon: We could send back your clippings around election time so you can put them in the paper.

Mr. Chairman: Mr. Bradley, would you carry on, please?

Mr. Bradley: Mr. Chairman, I am sorry I did not stay and run in Sudbury and deprive that member of his seat in the Legislature.

I will get to my last question. First, I have to figure out whether it is you or your executive assistants who are paid under this vote. What you do is your business; we do not worry about what you do. It is your executive assistants we are concerned about.

Hon. Mr. Walker: I am under the statutory. You can't vote on that one.

Mr. Bradley: We can reduce it to a dollar.

Hon. Mr. Walker: Do not do that. I am not going to work for a dollar.

Mr. Bradley: When they hand you material in the House, and we find these quotes out of context in this very selective use of this material, is that your or their role?

Hon. Mr. Walker: That is a very strange question to ask. If I quote it, it is my choice. I am not a ventriloquist.

Mr. Bradley: When you quote out of context, that is strictly your decision. They do not hand you the full quotes so you can be fair to the members of the opposition. They hand you only those things which would be advantageous for you to use against a member of the opposition.

Hon. Mr. Walker: I take responsibility for every single thing I quote in the House. Blame me if there is any problem. Criticize me if there is anything. Do not blame them for that. I am not a ventriloquist.

Mr. Bradley: You are the villain in the piece?

Hon. Mr. Walker: I am the villain.

Mr. Bradley: I suspected you were the villain all along. However, the overriding question I bring up as a member of the opposition really involves the role of the opposition as opposed to the ministry.

Notice I use the words "as opposed to." I should not see the ministry as the opposition. Yet, because of what goes on, I feel that while they are administering public policy—and in many cases they are doing a very good job, and they are honourable people and so on—I get the idea it is a case of "us" and "them."

Hon. Mr. Walker: You should not have that idea.

Mr. Bradley: I really get that idea.

Hon. Mr. Walker: You are getting paranoid, Jim.

Mr. Bradley: It is not a matter of being paranoid. I think there is sufficient evidence over the years that I have been a member of this Legislature, and I am sure before, that they are on your side and not on our side.

Hon. Mr. Walker: Look at those two girls sitting back there on your side. Do they look on your side or my side?

Mr. Bradley: We ask the questions, not you.

Hon. Mr. Walker: They are even smiling at you.

Mr. Chairman: Mr. Bradley, are you finished with that item?

Mr. Bradley: Yes.

4:40 p.m.

Mr. Swart: I want to make a brief comment. I noticed a humorous reaction on the part of some members when Mr. Bradley was raising this issue, but it is a serious issue. I know a fine line often has to be drawn between government business and the ministers' business and partisan politics but, difficult as it may be, that line must exclude partisan politics from the public payroll. It goes too far if there are people on the public payroll whose main job, or even a substantial part of it, is to assure that partisan politics are protected.

I just want to make the point that it is a valid question to raise. It is very easy for it to creep in. If the whole government—

Hon. Mr. Walker: You have chosen the wrong example to use, if you are trying to attach yourself to Mr. Bradley's horse.

Mr. Swart: I am speaking in general terms.

Hon. Mr. Walker: You chose his example to preface your comments.

Mr. Swart: I did not use his example at all. I said the issue he has raised will show—

Hon. Mr. Walker: You said when people reacted humorously at Mr. Bradley in the House, that prompted you to make the comment.

Mr. Swart: I said they were laughing at the issue Mr. Bradley raised and I wanted to say it was a serious issue. Those are almost the exact words I used, Mr. Chairman. I want to reiterate that it is a serious issue. It is an issue which has to be addressed continually by the members of the Legislature on both sides of the House. I just do not want to let it pass without comment.

Hon. Mr. Walker: Let me ask you about your research assistants. Can you give me assurance they are not political?

Mr. Swart: I do not have a research assistant.

Hon. Mr. Walker: Oh, I do not know about that. I suppose we could look around your office and find someone there who is helping you. Yesterday you were talking about research on the question of ethylene glycol, and milk just a couple of days ago.

Mr. Swart: I am saying it is a serious issue whether it is a caucus or government which is using it for partisan political purposes.

Hon. Mr. Walker: It was a partisan political person who raised Mr. Bradley's matter with me.

Mr. Swart: Of course. But it was a very legitimate question.

Hon. Mr. Walker: It was a very legitimate response, too.

Mr. Swart: I am not getting into the argument of whether or not you incorrectly used your office. I have not accused you of that. I am saying this issue is exceedingly important and has to be addressed. They are on the public payroll. They are public servants and should not be engaged outside, in their own time, in the process of that pay.

Hon. Mr. Walker: Like your researchers.

Mr. Swart: I am not conceding that our research is doing anything other than research with regard to legislation and all of the other things they are required to do in the course of our jobs as members of the opposition.

Hon. Mr. Walker: They draft half of your questions, nonpartisan though they are.

Mr. Swart: I have never had a research person draft my questions. You may say that I should start to do that, but in fact they have not done so.

Hon. Mr. Walker: I said they draft half. You draft the other half.

Mr. Swart: No, they do not.

Mr. Bradley: Let me narrow it to what we are really talking about. We accept the fact you have a researcher. You have had Wayne Mercer in here from time to time. He has done an excellent job over the months for your caucus. We accept the fact that your executive assistant or administrative assistant has a certain role to play that is political, but I have never been a minister and I do not know if that is the case.

The real concern is whether this is creeping into the ministry, where there are civil servants. The opposition and you say it is paranoia, and in some cases, perhaps we are overly suspicious. But there have been grounds for suspicion that the ministry is on your side and not ours. That is

where the minister himself can set the tone. That is what we are concerned about, more than your personal assistants. That is their business.

Hon. Mr. Walker: There are no grounds for even suggesting that. Let me cite you an example of a person who is now in this room, Mrs. Paul, who is the director of communications. Her office is beside that of the parliamentary assistant. She has one of these automatic typewriters and, as you can appreciate, a lot of communications go out.

The parliamentary assistant, Mr. Mitchell, who is on this committee, had occasion to send some repetitive letters because Ontario scholarships had been awarded to a number of young people in his riding. He attempted to secure the services there; Mrs. Paul quite properly refused, because that falls into political purposes, if we can call it that, or partisan, or political party purposes, or at least local member constituency services.

Mr. Bradley: I appreciate the distinction.

Hon. Mr. Walker: That breached the line. It was asked in all innocence by Mr. Mitchell because the machines were all there and not even being used. She had to inform him that a machine was not to be used for those purposes and he accepted that quite readily. That was an understandable line which was accepted, and that is a line which applies through our entire ministry.

You can take any of the people who are in this room now, or who may come here during these estimates, and inquire the same of them and you will find they draw that distinction. We do not practice partisan politics with our people in the public service.

That is not to say that each minister and indeed each member of this Legislature does not have a person who is a political person. After all, that is the business we are in—politics. We have those people within close call of us. In this case we are talking of executive assistants, special assistants, or administrative assistants; they fall into that category of being that political type of people, as indeed does your constituency secretary, my constituency secretary, the secretary who helps me in my office to do constituency work. That is the nature of our operation.

But when it comes to the civil service or to those people who are public servants, but basically civil servants or the senior executives, they draw the line very clearly. I will not even let my deputy come to any political events, which is

quite proper; he should not be there. It is the public service, it is the civil service that continues from government to government.

Mr. Bradley: But they are not there to make you look bad. They are certainly there to make you look good.

Hon. Mr. Walker: I certainly hope so. I certainly hope that what you are saying is the case. On the other hand, they are making the ministry look good and if I happen to attach to the coat-tails of a good-looking ministry, I think the two are not mutually exclusive.

Mr. Bradley: They did that with the last ministry you were in.

Hon. Mr. Walker: A lot of people thought the ministry was doing the right things. I would like to believe a lot of people think this ministry is doing the right things; indeed, I heard you say some of them.

Mr. Bradley: It is doing some good things. There is no question about that.

Hon. Mr. Walker: If we are doing good things, I hope that does not make me look bad.

Mr. MacQuarrie: Mr. Chairman, most of what I was going to say has already been said. A distinction has to be drawn between the members of a minister's personal staff, who, quite properly, can have a partisan outlook and whose employment is at pleasure of the minister and, on the other hand, the civil servants proper, whose activities should not be partisan. But as dedicated public servants, they should improve, if possible, the image of the ministry and if, in so doing, that reflects favourably on the minister, so much the better. But it is not done in a partisan sort of way.

I see a clear distinction which can be drawn between those two types of employees or classes of employees within a ministry. The minister's personal staff could be members of the ministry proper.

Hon. Mr. Walker: You have to realize the day I end up being fired they go as well, but the public servants remain. You have that political staff and they rise and fall with the minister; indeed, to some extent yourself as well.

4:50 p.m.

Mr. Bradley: Do you feel that you can be assured that that would be the case?

Item 1 agreed to.

Items 2 to 7, inclusive, agreed to.

Vote 1501 agreed to.

On vote 1502, commercial standards program; item 1, securities:

Hon. Mr. Walker: This is the area on securities that Mr. Renwick I know has some interest in. Can I ask someone to slip out of the room for a moment and see if they can track down Mr. Knowles?

Mr. Renwick: I have some matters related to the Ontario Securities Commission which I can proceed with directly with the minister.

Mr. Chairman: Excuse me, Mr. Renwick.

Mr. Bradley, Mr. Renwick did mention this before. Would you let him go ahead of you because he will not be here next week?

Mr. Bradley: I know the item he wishes to pursue and I will, yes.

Mr. Renwick: Thank you, Mr. Bradley.

Mr. Minister, first of all I would like to find out from you the state of certain prospective legislation. In the latter part of November 1980, the securities commission published a draft proposal, amendments to the Ontario Securities Act of some substance. I would like to know the legislative intentions of the government with respect to those proposed amendments.

Also, on June 25, 1981, you made a statement in the assembly with respect to the Toronto Stock Exchange Act, 1981, and the Toronto Futures Exchange Act, 1981. I am sure you recall those particular statements.

Therefore, my first question is simply: What are your intentions about that legislation, because it opens for me a broader concern which I have? Is my question clear to you?

Hon. Mr. Walker: Yes. I can answer the latter part of your question quite easily and that involves the Toronto Stock Exchange Act and the Commodity Futures Act. Those acts were floated more or less late in the spring session of 1981. I hope to be able to introduce those now in the fall for first reading.

Mr. Renwick: First reading this fall and you would proceed next spring, is that your intention?

Hon. Mr. Walker: Frankly I would like to get them through this year, if that is possible.

Mr. Renwick: These draft proposed amendments to the Securities Act were issued the week ending December 5, 1980. There was a significant cross-reference and index published with it.

Hon. Mr. Walker: This is the first I have seen of this.

Mr. Renwick: I am not expecting you to

answer immediately, but when you have the information, I would appreciate your comment about it.

Hon. Mr. Walker: Mr. Chairman, I cannot answer the question that involves—

Mr. Chairman: Would you please identify what you have? I do not think it is really on the record.

Hon. Mr. Walker: I do not have anything.

Mr. Renwick passed over to me a document which was a notice, Draft Proposed Amendments to the Securities Act, which was supplement X-2 to the weekly summary, week ending December 5, 1980. My only reply is that I do not have an awareness of this one. I do know that the commission itself has a number of amendments from time to time that are thought to be useful. At this moment I can tell you it is not in any legislative form.

Mr. Renwick: I understand that. All I was asking is when do you intend, as minister, to proceed with the amendments forecast in that document dated December 5, 1980, as published in the weekly summary of the Ontario Securities Commission?

Hon. Mr. Walker: I would have to say I am unaware of the specific ones that have been raised here and I have not gone over these draft amendments that I presume have been drafted by the commission itself and floated.

It is my intention to have some discussion with the commission in the not-too-distant future with a view to introducing some next year amendments that will make the act more precise and make the act work somewhat better, in the light of the fact that, there having been quite a wholesale change as recently as just a couple of years ago when it was introduced and became law, it has now had a few years of service.

The commission is in a position where it wishes to make certain recommendations. My suspicion is that what they have done is floated these as suggestions, got some feedback on them and no doubt, in due course, will be making certain recommendations to me.

Mr. Renwick: The reason I wanted that information is because I think that the process adopted by this assembly—with respect to dealing with legislation of this technical complexity in an area in which most members of the assembly do not have any particular special interest, and in many cases have no real knowledge of its content—has usually meant that by the time the discussions are carried out

with the industry, in the broader sense of that term—that is, all of the persons specializing in that branch of the world known as corporate financing—they have had a total input to the legislation.

The bill then comes before the assembly and we are not only in grave danger but, in fact, are in the position of simply rubber stamping. We do not understand the legislation; no real effort is made to explain it to members of the assembly. In a sense, and I say this not in any personal sense of exclusion from the process, nothing is accomplished by the assembly.

I am not saying that this particular document is one which necessarily has the agreement of everyone, but the problem is well stated in the document research publication number 8, *Securities Regulation and Freedom of Information*, which was carried out on behalf of the Commission on Freedom of Information and Individual Privacy, prepared by Associate Professor Mark Q. Connelly, of the Osgoode Hall Law School at York University.

5 p.m.

I am not touching upon the question of privacy of information, that is not my concern. I want, however, to quote and this was at page 91 of that particular study under a heading which is on page 90 of that study, "Responsibility of the OSC to Cabinet and to Legislature." In the course of it, it states:

"In fact, however, as the present chairman of the OSC wrote before he assumed that position"—and that was a reference to Mr. J. C. Baillie, who was then the chairman of the securities commission who had written an article, "Securities Regulation in the 'Seventies'" and chapter 8 was: "Studies in Canadian Company Law"—"there is precious little accountability by the commission to the cabinet or to the Legislature. A variety of factors contribute to this state of affairs. Since many of the commission's functions are quasi-judicial in character, cabinet recognizes the importance of noninterference in order to maintain the appearance and reality of impartiality on the part of the commission in carrying out those functions."

I have no problem with that statement, I am not arguing about that.

"Of equal importance is the fact that outside the commission itself there is a dearth of people in the government sufficiently familiar with the securities field to keep tabs on what the commission is doing. This lack of relevant expertise extends to the Legislature. The ironic result, as has been pointed out elsewhere"—and

that reference is again to the same article by Mr. Baillie—"is that the OSC in a system of 'responsible government' is a good deal less politically accountable in practice than is the Securities and Exchange Commission of the United States."

It goes on to speak somewhat further about it. I do not want to go on at any great length. I want to draw attention specifically, particularly to my colleagues on the committee—and I wish there were more in attendance because it reflects exactly the concern which I have that members of the assembly, because of a multitude of other duties and so on, are not prepared to spend the time on this kind of legislation which is very complex, which certainly does not attract very many votes; it certainly does not attract any votes in Riverdale and I am quite sure that would be true of my other colleagues on the committee.

I simply want to say that in 1978, when that Securities Act went through—and we had hearings on that legislation; there were some public interests that were unresolved in the intraminiistry discussion with the industry so there were some people professionally interested in the field who came to see us at that time—the net effect was that not a single solitary change was made in the legislation.

As a courtesy to me in the House, I think they inserted a comma or a semicolon, I am not sure. There was some minor amendment that I was allowed to propose in the House because it was an oversight in the statute. I am saying I believe that any objective observer would say that this assembly is totally superfluous with respect to this kind of legislation.

My question, which is addressed not only to the minister but also to the members of this committee and to the assembly generally, is: How do we discharge the function of dealing with this comprehensive legislation which includes the statute and the regulations? This compendium includes the statute and the regulations, but so that my colleagues will see it, these are the regulations. There is absolutely no way in which we have any forum for or method of coping with that particular problem.

The article goes on, after where I referred to the assembly being superfluous: "The legislation was entirely the product of the OSC in consultation with industry representatives. The version passed, Bill 7, was in fact the sixth proposed new Securities Act to be introduced since 1972, but it was the only one to get beyond first reading.

"With the introduction of each succeeding

bill, voluminous briefs were filed and many meetings were held with interested parties. As a result of such meetings, numerous amendments were made between first and second readings. The bill was referred to the standing committee on administration of justice in late April 1978 and that committee conducted a total of about 10 days hearings. It reported the bill out on June 21 and third reading was given on June 23.

"Transcripts of the committee hearings are kept on tape but they are not transcribed or published. The committee hearings were open to the public but since no advance agenda of topics was published it would have been impossible for an interested member of the public to make an appearance on a given topic unless he was willing to sit through 10 days of hearings.

"The committee issued no report on the bill. The bill was debated in the full assembly only on second reading and then only in the most general terms.

"The bill was amended in numerous, and in some cases important, respects in the standing committee, but not one change of those adopted was proposed from within the committee. The bill was, from the first word to the last, exclusively the work of the Ontario Securities Commission and the industry. No input into the legislation was made by the Legislature. The Legislature's role was merely a necessary formality to vote."

Others can read the rest of it if they are at all interested in my concern. I was not selectively reading from the report to serve my own purpose. I think it was very clear.

The second aspect of it, which again concerned me very much—and I understand the position which the Ontario Securities Commission took at the time, but it was immensely difficult for us in this assembly at the time, when the matter of Astra Trust Company, C and M Financial Consultants Limited and Re-Mor Investment Management Corporation was before the standing committee on administration of justice. One of the things which Mr. Knowles, the chairman of the commission, was going to do was issue a statement. It was only by the intervention of the committee and others about their concern of that that the commission quite properly, and indeed in my view very wisely, decided not to issue the statement because it would have been—again I am not talking in personal terms—it could well have been viewed as an affront to the assembly at that particular time.

As a result of that, on June 26, 1981, the

securities commission issued a statement—and I am not going to read it at length—simply stating that until the legal questions were decided in the courts, they would not be making any further comment upon it except when lawfully required to do so. If anyone wishes me to read it, that is fine. It is published in the bulletin of the securities commission.

The other concern about the divorce between the responsibility of the commission to the assembly was raised. I do not want to overstate it, but in substance it was said that it was an independent body and was not responsible even through the minister.

I believe it was one of the members of the staff of the commission who said, after I had spoken, that they had appreciated my political science lecture number one, which indicated that a statute says that the minister is the Minister of Consumer and Commercial Relations who is responsible for the administration of the act and where the Ontario Securities Commission is tied to this assembly with respect to the vote of funds, and where the Securities Act states that the OSC is responsible for the administration of the act. Responsible to whom? I took the very simplistic view that it was responsible to the minister and through the minister to the assembly and was accountable to the assembly.

5:10 p.m.

Again, I am not expressing any particular personal concern about the matter. What I am speaking about is the legislative process, that we have a body which is so detached from the assembly that it went to the extreme of stating that in fact it was not responsible to the assembly.

I can well understand that. To the commission, we are not people informed on the work they undertake. We have no way of being informed. I get—I assume every member of the assembly gets—the monthly bulletin of the commission. Unless one has a very specific, particular interest, it is not likely that many of the decisions and orders of the commission are read or understood.

Another aspect of the same problem is that while the commission held lengthy hearings with the industry with respect to these regulations, we have no process in the assembly for our standing committee on regulations to be a part of the process of understanding what is going on. And there is no one in the assembly, that I know of, who could tell whether or not these regulations are within the authority passed under the statute. I assume everything is done in

good faith; I am not arguing that question. I also assume it is done, and part of the problem is that it is done, by men of intense knowledge of this complex, difficult area.

But the nature of the process is such that I guess I make a kind of a last plea that we try somehow or other, in consultation with the minister and with the securities commission and with the assembly, to sort out our responsibility and what we are going to be doing about it.

In a lesser degree, of course, the same problems will come up when the Toronto Stock Exchange Act, 1981, comes up, when the Commodity Futures Act, 1981, comes up, when the subsequent amendments of which I gave you what little knowledge I have of them come before the assembly. In a lesser extent it will come before us when the new Business Corporations Act, which now stands referred to this committee, comes before us.

There is a complex of questions there which I do not expect the minister to particularly answer today. I wanted to get on the record my intense concern about it. Some people can say that the assembly simply relies on the expertise of the government and the role of the government, and maybe my colleagues in the Conservative Party, sitting as they do on the government side of the House, feel that is quite sufficient.

But I can assure you, sitting as a member of the opposition, with a constitutional responsibility to understand the legislation which is enacted and to be in a position knowledgeably to criticize the legislation, that it is an intolerable position for us to be in. I do not expect that it will be changed. There is no magic about it, but I certainly wanted on this occasion to express my very deep concern about that complex of problems which I have raised in what I hope are a compendious form, even though I have gone on at some particular length.

Fortuitously, there are some other questions which certainly I can ask, but I would appreciate the opportunity of putting on the record now the items I would like the securities commission to address in the course of the hearings on this particular vote of the estimates. And, fortuitously, between now and tomorrow morning, whatever, for most of it I do not think they need any particular preparation. If they do, we have a little bit of time in which to carry it out. Neither am I suggesting that in the limited time available each and every one of the items I have jotted down can be dealt with.

I leave it to the ministry and the representatives from the commission to select, from the

area I have spoken to, those which they believe are of topical public interest and which this committee should at least try to have some initial knowledge about. They are in no particular order of importance, from my point of view. They are simply matters which I jotted down and gave a number to.

I am not interested in whether they are dealt with in the order in which I have listed them or not. Perhaps I could put them on the record and we could deal with them, when the occasion comes, in such order as the commission feels is informative and topical. If certain of them can be best dealt with at a later date by a brief correspondence, I am quite content with that procedure.

The first item is uniformity of security legislation in the other jurisdictions in Canada, and the degree to which that kind of uniformity has been exchanged. I believe this is a matter which must remain within the jurisdiction of the Ontario assembly. I have never been one who believed it was a matter which should be abdicated to the federal government. So, I am not addressing that question, but the question which I think was raised in the weekly summary of October 12, 1979, dealing with progress towards uniformity in other jurisdictions. I would like to have information that would bring that up to date.

There is a most interesting reference underlining the complexity and the technicality of it in the remarks of Mr. Baillie on November 2, 1979, to the Vancouver securities seminar. He stated: "What might well have been a major problem was avoided by legislative acceptance of our suggestion that full implementation of the 'closed system' rules as to prospectus filings be postponed for 18 months. I am convinced that the closed system will contribute both precision and flexibility in what has always been an unsatisfactory area of the law, but I am not convinced that the provisions covering resale. . ." and so on.

I think the members of the committee would like to know exactly what the closed system rules are. If the 18 months have not already drawn to a close, it must be very close.

Let me make a disclaimer, Mr. Chairman. I did at one time have some knowledge of securities legislation in the corporate field, but I am not pretending that I have kept abreast of, or knowledgeable in, the field which is involved. Probably my background in the field accounts for the general concern I expressed.

The third item I have already spoken about,

that is the status of the draft proposed amendments and about the proposed Toronto Stock Exchange Act, 1981, and the proposed Commodity Futures Act, 1981. That, of course, relates to the key part of what I said earlier; how the assembly knowledgeably deals with such bills other than by making a visit to the Toronto Stock Exchange at the arrangement of the minister—just before we go to the racetrack to see how the parimutuel system operates.

Interjection: What about the censor board?

5:20 p.m.

Mr. Renwick: And now, with *Not a Love Story*, perhaps an evening of titillation with the cuts by the censor board—to which I took a relatively strong objection, even though the blandishments of the minister would have us believe that that would have been a great way to spend a day.

The fourth matter is that I note an increase in use of a concept of a limited partnership which, to you and me, Mr. Minister, was a statute on the books but one we very seldom ran into.

Fifth, I would like some understanding of the number of very substantive appeals to the commission for exemption from the provisions of sections 24 and 52 of the Securities Act in cases such as the Bache Halsey Stuart matter, and the matter of Mr. F. Joubin, of MW Resources.

The sixth matter is how the commission deals with the problems created by the proposed national energy program. I think it is important for us to have some sense of what effect program announcements impinging on this field have on the commission, and how the commission must respond.

The seventh item deals with the questions of control blocks, and relates to section 99 of the Securities Act. I was thinking of the British Columbia Forest Products-Noranda-Alberta Energy Corporation matter and also the John Labatt and Dominion Dairies matter. The question of control blocks is not only topical; it is difficult, and involves judgement calls by the commission.

Some time ago, the commission was good enough to send me the policy with respect to that question. The information I have is dated February 22, 1971, and followed a request for comments about that whole question. I believe it is a matter about which some members of the assembly should be knowledgeable, because it is an essential ingredient of the adequate functioning of the financial markets as a matter

of course, in my view. The select committee on company law was divided on it some years ago, when we considered it in a more rudimentary stage.

I have raised the matter of item eight, which was the statement made by the commission about Astra/Re-Mor et cetera. That again raised in my mind the specific question of the relationship of the commission to the minister, and through the minister to the assembly, under a system of responsible government.

Item nine is a question with respect to the registration of nonresident persons in the securities field, particularly under section 73 of the act, and what was known at one time as the ownership report, and presumably means the foreign ownership report.

Question 10 is the federal and provincial governments' financial assistance, or guarantees of support for Massey Ferguson, how that impinged on the securities commission and how the commission responded, taking, as I do, that their profound obligation is to respond in the public interest.

The eleventh item is the question, forever present in this time of corporate concentration, of the takeover bids. Whether it was the Noranda one, or the Campeau attempt to take over Royal Trust, or any one of the numerous other takeover situations, they must have caused very serious concern to the commission. It would be most informative if the commission could advise us on those issues.

Item 12 is the present concern—I think there was an editorial in the *Globe and Mail* not so long ago—about what has become known as uncommon equity securities. I understand that the hearing was held just recently on that matter. It would be helpful to the committee if the commission could bring us up to date about the problems and questions in relation to that.

Item 13 is the question of insider trading, which was always a matter of immense concern to us in the assembly years ago, and continues to be. I was thinking particularly of the British Columbia Resources Investment Company and the Kaiser question where there was, I believe, a cease-trading order against BCRIC simply because there were some questions related to insider trading.

Item 14 highlights the problem of the assembly's dealing with the question of disclosure of the remuneration of directors and officers of publicly financed corporations. The standing committee on administration of justice had an exchange with your predecessor on December

15, 1978, which was taken by the members of the opposition to be a repudiation of the commitment made by the previous minister to this committee with respect to that matter.

That is illustrative of the problem. It happened to be one of the few occasions where, if we had pressed in the committee when it was before us, the matter would have passed. But, because of our concern, we wished to make certain it was thoroughly canvassed in review, and that whatever necessary exceptions had to be made, and so on, would be done. The then minister, Mr. Grossman, we felt gave a straight commitment that that would be done and that an amendment would be carried out in due course. However, according to the transcript to which I referred, his successor, Mr. Drea, came to a different conclusion on it.

Again—I use that word not out of personal frustration, but in the sense of its being illustrative of the very real difficulty the committee has in dealing with this kind of legislation—my interest is in obtaining, succinctly, readily and for the public record, the kind of response which, through the minister, would stimulate a dialogue with the commission on these complex matters, so that we might begin to have some sense of what is going on.

All of us at least skim the newspapers, or thumb our way through the Report on Business, and when matters of topical business interest are around we tend to be interested in them. But I do not think we can disclaim our obligations simply by having sort of a general newspaper reader's interest in the topic. We have an obligation to understand, to some extent, this kind of legislation.

If there is a definitive decision by the assembly that from now on they treat this as rubber-stamp legislation, fine; it would certainly relieve us of a great deal of obligation. I am not trying to transfer my concerns to anyone. I am asking for the resumption of an adequate dialogue on all of these questions with respect to the relationship between the commission and the assembly.

5:30 p.m.

Not that it was of momentous significance, but I believe I spoke on the Securities Act in 1978. In any event, I expressed my generalized views about the need to have a cold, hard look at the commission and the public interest that was being protected, not in any critical sense, but it simply had not been done for a long time. I was very pleased to see that—and I trust it will be done not because I said it, but within the general

framework of the concerns I expressed in 1978 about the commission and the role it plays, its responsibilities and its duties.

I was pleased to note that you and the chairman are embarked upon a consideration of those matters which, for reasons the press understands and I can never quite comprehend, they want to produce as a confrontation between you and the chairman of the commission. That may ultimately be so. I certainly would be extremely interested in knowing the brand of scotch you are going to drink the evening you put your feet up on the table with the chairman in order to discuss the alleged differences between you and him as to the purpose—

Hon. Mr. Walker: I might invite you along.

Mr. Renwick: That would be very nice. I would be glad to come along and drink the scotch while you settle your differences. I am very interested in it and, in a strange way, what I have said today comes full circle from my opening remarks to my closing remarks.

I do not know what my colleagues consider should be done about this kind of legislation. It just makes me extremely uneasy about the inadequacy of the method by which we pass this legislation, which is just an integral part of the integrity of the financial markets in Ontario, which are a gut part of the integrity of the financial community across the country—and a reputation in the financial world.

I have gone on at some length, but I thought it would be best for me to make the full statement and then hope that the commission will come to us in the time available and perhaps respond to some of those points.

Hon. Mr. Walker: Henry, do you want a quick beer?

Mr. Renwick: I emphasize just very briefly, I am not trying to dictate the order, neither whether in the time available we can deal with all of them. I wanted to highlight for my colleagues, for you, Mr. Minister, for the commission, the kinds of concerns which I, as a person who has some past knowledge of the area and a continuing, intermittent knowledge, have about it.

I am glad that Mr. Williams is here because I know he is the chairman of the standing committee on regulations. This kind of thing must be of immense concern to him. Are you still the chairman of that committee?

Mr. Williams: No.

Mr. Renwick: Whoever now is.

Hon. Mr. Walker: Henry, do you want to come up here beside me for a moment and you can help me answer some of these questions?

I share too, Mr. Renwick, some of the concerns you have raised, in terms of how does the legislative assembly cope with the legislation that is before it. It is, indeed, copious legislation, as you have produced by just showing us the actual copy of the act and its regulations, and it is complicated.

It reminds me of the corporation tax acts and that variety of things which you and I used to debate at some length back several years ago—probably very boring to many members of the Legislature, because it is difficult to come to grips with what is being said. It is very easy to get lost in the convolutions of the words. Often, it is just a very stange debate that goes on, usually between two people in the House. I was often grateful that you had some knowledge of it and helped me out a great deal in some of those acts, and similarly here, as you have gone through this rather copious and convoluted act.

But as to the general question, maybe Mr. Henry Knowles, who is now here beside me, and is chairman of the commission, might be helpful in addressing some of the questions posed. Obviously not all can be addressed in the three minutes that remain, but we can continue this. Are you here tomorrow?

Mr. Renwick: Yes, I will be here tomorrow.

Hon. Mr. Walker: We can continue this tomorrow at 11:30.

Where do you start, Henry?

Mr. Knowles: We will start, Mr. Renwick, with perhaps the easiest questions to deal with—I do not know that I can deal with them in three minutes—on the status of the amendments to the Securities Act. They were first published in December 1980 for public comment. Public comment was received. They were again published in late June or early July in revised form, reflecting in part the comments that had been received.

Following that 1981 publication in our OSC bulletin, we published a notice inviting anyone who was interested to come up and meet with

the commission and its staff—and I think it was three or four successive days—to go through the amendments as suggested and the comments received. That process was completed in September and the staff was given the job of putting together the compendium, if you will, of those three sets of process for the purpose of forwarding to the minister this week or next week—I believe it is this week, if the staff can get it out in time—a suggested package of amendments to the Securities Act.

A step that has not been taken before is we propose to again republish the package that has been sent across to the minister, saying this is what the commission has sent to the minister, with a request that he introduce it to the Legislature, if it meets his approval to do so, with the hope that it could get rapid treatment in the Legislature. In the main it is housekeeping, trying to pick up some of the experience and get rid of some of the glitches that have come to pass since the enactment of the legislation in 1978.

There are some substantive matters dealt with in the proposed legislation and that is why we felt it appropriate to give the public further notice of what was going across to the minister. So to the extent that the public wished to participate in making suggestions to the Legislature, they would be in a position to know precisely what had been given to the minister or request it be brought before the assembly.

From there it would flow, Mr. Renwick, into discussing the accountability and the responsibility of the OSC to the assembly, but I hesitate to embark on it for something like 15 or 20 seconds, because I would like to flow through the whole discussion, if it is acceptable.

Mr. Chairman: May we take that as a natural break and with six seconds left to 5:40, we have to adjourn back to the House for private members' votes. So may we adjourn at this moment to reconvene tomorrow morning following routine proceedings in the middle of vote 1502, item 1? Good. Thank you.

The committee adjourned at 5:40 p.m.

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Knowles, H. J., Chairman, Ontario Securities Commission

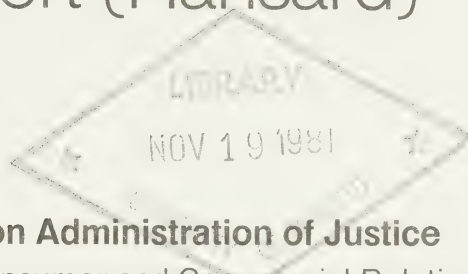


No. J-12

2 Legislative assembly

Legislature of Ontario Debates

Official Report (Hansard)



Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

First Session, Thirty-Second Parliament

Friday, October 30, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, October 30, 1981

The committee met at 11:44 a.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1502, commercial standards program; item 1, securities:

Mr. Chairman: Gentlemen, shall we proceed? We were last on the estimates of the Ministry of Consumer and Commercial Relations. Mr. Renwick, do you wish to take the floor?

Mr. Renwick: Mr. Chairman, as far as I am concerned, I made all the comments yesterday that I wanted to make, other than to add an item that I omitted to state; it would be item 15 of the numbers I have. It is the fixed commissions question, which has been around for a long time. I would be anxious to hear the response of the minister and the chairman of the commission.

Hon. Mr. Walker: Mr. Chairman, I would like to ask Mr. Knowles to answer specifically the questions posed yesterday by Mr. Renwick. There were 12 or so questions, and Mr. Knowles had started to answer one or two of them yesterday. Perhaps he could continue with that now.

Mr. Knowles: Mr. Chairman, I was responding to Mr. Renwick's question with reference to the status of the statutory amendments that are being proposed. I had advised that I hoped they would be available this week or next week. I took the opportunity overnight to check, Mr. Renwick.

Those statutory amendments will not be published until next week. They should be in the bulletin that comes out a week today, which is received a week this coming Monday or Tuesday. They will have proposals to the minister for amendments to the statute. If he approves, we hope he will bring them to the Legislature.

Another question in the same general area related to the status of the review of whether individual director remuneration should be required to be disclosed. I took advantage of the opportunity of the time that was made available since the question was posed to phone the office of the director of corporations in Ottawa, with

whom the Ontario Securities Commission had been working.

The status of that is there was an active review in the legislative committees of that subject matter. I have been informed, but not of my own knowledge, that as a result of that review by a committee of the Legislature, it was determined additional information was required with reference to whether the remuneration of directors should be aggregated or shown separately. The federal authorities were looking into the very same question, and the OSC staff was asked to work with the federal authorities on that subject.

In the light of the economic happenings that have taken place over the last two years or so, I am told by Digby Vietes of the Department of Consumer and Corporate Affairs in Ottawa that it has remained on the federal agenda as a priority that keeps getting bumped down by virtue of more important federal programs and initiatives that are going on.

Last spring, the Quebec authorities proposed in a white paper the individual disclosure of director remuneration and held public hearings on that subject among other subjects. They made a proposal to Mr. Jacques Parizeau, Quebec Minister of Finance. The extent of that proposal has not been made public, nor has Mr. Parizeau's decision as to whether to require that individual director remuneration be shown.

The OSC's posture at this time is that we would like to work with the federal authorities and the Quebec authorities to have the same disclosure requirements required by each of the three jurisdictions. Mr. Vietes advised me this morning that is also the hope of the federal authorities.

Because the issue is actively being pursued at the present time by the Quebec authorities, we have determined that the OSC should await their decision. If their decision is to require disclosure, we would ask if they would share the comments they received with us so we could make an appropriate recommendation in this province and similarly in Ottawa.

If their decision is not to disclose it, we would ask if they would share with us the briefs presented to them that convinced them the

disclosures should not be made. Again, we would review them independently and, one would hope, make a recommendation to the minister to bring it before the Legislature.

That is the current status of the individual disclosure of director remuneration. I spoke with the chairman of the Quebec Securities Commission a week or two ago, and he anticipates that there will be something coming forth from the Quebec National Assembly in the early winter session. It would come forward perhaps in the form of a draft bill on securities regulations for that province.

That leads me to the next item of one of the questions—these are not in the order that Mr. Renwick proposed them—dealing with the subject of uniformity and compatibility of securities regulation in this country.

The OSC posture for many years, under the direction of the Legislature, has been to seek wherever possible either uniform laws or compatible laws across the country in recognition of the fact that the capital markets are not provincial but are indeed national if not international in context. In that connection, when Mr. Renwick was actively engaged in the field, there was a great degree of uniformity from Ontario westward and not so much uniformity from Ontario eastward.

A result of the introduction of the 1978 statute in Ontario was to knock out a large degree of that uniformity, in that Ontario, being a large population centre and the leading financial capital of the country at the present time, had deviated from the uniform path. That all predates my intimate experience with securities regulation. The members of the Legislature who participated in the passage of that 1978 act would be better versed to discuss that.

11:50 a.m.

As a result of the introduction of that statute, the staff and commissioners of the Ontario Securities Commission have been working to achieve uniformity or compatibility across the country, obviously because of the mandate imposed by the Ontario Legislature to try to persuade the other jurisdictions that the laws of Ontario are the format or the forerunner that should be adopted by those other jurisdictions.

Working from Ontario westwards, the Legislature of Manitoba has passed an act that is substantially the Ontario act but has not proclaimed that act in force. I am told by the chairman of the Manitoba commission that the prime reason it has not been proclaimed in force is that they are aware there are amendments

required to that act to get rid of glitches. They would rather bring their act forward with all those glitches removed; so they are awaiting the activity of the Ontario Legislature, when the amendment package is ultimately presented to it, to get rid of the areas that are causing difficulty in Ontario.

I am advised by the chairman of the Saskatchewan commission that that province is not doing anything at the present time to amend its securities laws, which are substantially those that existed in Ontario prior to the introduction of the 1978 act.

Alberta is in the very active stages of bringing forth a new securities act that will adopt some, but not all, of the Ontario format. We are not privy to what is going to be brought before that Legislature. In the efforts to work out a compatible relationship, we have tried not to seem heavy-handed or prying in getting advance information. The officials in that province—the appointed officials as opposed to elected officials—are well aware that we are anxious to see their draft bill and to have the opportunity to comment upon it.

British Columbia is in a mode substantially similar to that of Alberta, in that the appropriate minister out there has given instructions, we are told—this is secondhand information—to prepare a draft securities bill that will provide securities legislation of a type that is second to none in North America, as opposed to Canada.

I am also told by reputable sources in British Columbia that they are actively considering moving to a commission format as opposed to the present format of a superintendent of brokers, a single individual who makes determinations of various kinds. If those determinations are not acceptable, resort would be directly to the courts.

They are reviewing putting in a commission, not dissimilar to Ontario's, with functions not dissimilar to Ontario's but not of the same size as Ontario's. I think they are thinking of a five- or six-member commission.

That is strictly hearsay, Mr. Chairman. I am just reporting. I returned recently from Charlottetown, where there was a conference of Canadian securities administrators, the first one in history in which all the provinces and the two territories were represented and exchanged views.

Working from Ontario to the east, Quebec, as I mentioned, has introduced a white paper. People have had the opportunity to comment upon it. It is not legislation that is identical to,

nor does it follow the format of, the Ontario legislation. It works, on paper anyway, as a very compatible system and would not cause any cracks in the provincial administration of the capital markets of the country.

The proposed bill in Quebec—I do not believe it has been introduced as a bill yet—did not contain an equivalent of the Ontario follow-up offer. I am told, again by fairly reputable sources, that it had been proposed that there be no follow-up offer in Quebec, in return for which the private agreement exemptions would be reduced to single families. However, the founders of the corporation-type private agreement have reopened that question and it is under active discussion as to whether they will expand the private agreement exemptions and correspondingly consider putting in a follow-up offer provision.

The Atlantic provinces, with Newfoundland absent, suffer from a lack of funds and direction. They had started some years ago, prior to my going to the Ontario Securities Commission, a format to come up with an Atlantic provinces uniform securities act. Indeed, they appointed a committee with representatives from, I believe, New Brunswick, Nova Scotia and Prince Edward Island. My predecessor, Mr. Baillie, had corresponded with that committee.

The will to come up with a uniform act for the Maritime or Atlantic provinces seems to have been lessened because of more pressing matters for those provinces' Legislatures to consider—items of more immediate concern to them in the economic area and other social areas.

I am told the committee still exists but it is not very active. I asked specifically if a draft bill, which was not available to anyone other than the members of that committee, would be made available. The answer was no. With lack of funds, the appointed authorities in those provinces saw little likelihood of that being pushed forward on any current time frame basis. I think it is unlikely that the securities laws of those three provinces will be substantially changed in the near future.

The province of Newfoundland has other things on its agenda, and I believe, from the information that was given to me, securities regulation is a very low priority of the Newfoundland Legislature and, indeed, the community.

That fairly well brings up to date the status of what is going on. I left out the territories; their laws are, basically, laws that existed in some of the other jurisdictions prior to the new Ontario 1978 act.

From the conference that was held in Charlottetown, the will to come up with a system of working the securities laws together across the country exists, and it is a very good will. People are straining to come up with either compatibility, the phrase that Quebec prefers rather than the word "uniformity," which is not acceptable in their vocabulary for discussing the matter. In the other provinces, uniformity is a very good will.

Some of the securities authorities in other provinces recognize that as Ontario goes, so goes the nation in securities laws at the present time. That sometimes is beneficial and sometimes is detrimental in trying to arrive at solutions to matters.

The national policy system, where the securities administrators in the various jurisdictions adopt a uniform policy from coast to coast, is alive and well and still functioning. It is suffering from some old age and from some antiquated concepts and needs revamping very much. There again it requires time, personnel and money resources to bring that about. But I would say that, bearing in mind its age, it is relatively healthy, and the will to maintain its health exists among the administrators themselves.

Either this week or next, a policy on financial projections will go out that has been adopted by Ontario, Saskatchewan and Quebec. The other provinces have agreed to take a no-action stand on it. What was becoming a rift or difficult area for the financial community, in that they were having to file different prospectuses in different provinces because some allowed projections and some did not, will disappear with the introduction of this new policy, and they will be able to go back to a single prospectus.

I think that fairly well completes the position, Mr. Chairman, on the status of uniformity and compatibility across the country.

12 noon

Hon. Mr. Walker: Mr. Chairman, may I ask a supplementary to that comment? In the first part of September, I met with the ministers responsible for consumer and commercial relations across the country in a conference in Quebec City.

Many of us, in informal chats, understood some of the problems of uniformity. I am trying to say that some provinces are more directly concerned about it than others. Some of the provinces, particularly the ones to the east, excluding Quebec, do not have the same interest in uniformity.

We agreed that the ministers interested in securities, or having large securities interests in their provinces, would probably meet before too long. We would meet with a view to attempting to achieve a degree of Quebec's work on compatibility and uniformity. That likely will be at the call of Alberta, which has undertaken to sponsor the effort.

Mr. Renwick: Thank you.

Hon. Mr. Walker: Your question was asked in the context of a national jurisdiction, which I think you were trying to negative. We agree entirely with that view.

Mr. Renwick: I am pleased to hear that.

Hon. Mr. Walker: Would you like to go on with the next question?

Mr. Knowles: I would like to deal with what I would call some of the current issues that Mr. Renwick has raised. On the one that he raised this morning, on fixed commissions versus deregulated rates, there has been a hearing called for, I believe, November 23 to take place in this city.

It will be a joint hearing of the commissions of British Columbia, Alberta and Ontario, with the Quebec securities administrators assuming what we call an official observer role. They assume that role because their statutes specifically forbid them from sitting outside of their own provincial boundaries. Quebec will hold a commission rate hearing, if I may call it that, either shortly before or shortly after the joint hearing to be held in Ontario.

The purpose of calling the hearing, which may seem a form of activism by the commissions that have called it, generates from the history of the subject matter. When the matter was last delved into in an official public hearing and it was determined not to deregulate the commission rates, it was also determined that this decision would be reviewed within two to three years.

That time frame went by some time ago. As a result, the Ontario commission contacted the other commissions to determine their interest in the matter along the same lines of trying to get uniformity across the country.

We found that the two western commissions would like to sit in. Those commissions were selected because each of them has within its jurisdiction a stock exchange. Manitoba, as a matter of courtesy, was invited to attend because of the Winnipeg Stock Exchange; but, because of the relative inactivity of that exchange and because of their budget constraints, they would prefer not to be involved.

Quebec is very anxious to consider it. You may have noted a recent increase in the public press in dealing with initiatives being taken by the Montreal Stock Exchange on various fronts in an attempt, I would assume, to reactivate or revitalize Quebec's financial markets. The Quebec authorities were pleased to join in an official observer capacity in Ontario.

The reason for having the hearing with the other commissions in Toronto is an attempt to save the industry the inconvenience and the costs of having to travel to the four jurisdictions to put on separate presentations. I should advise you that in most of these instances, although not in this particular one, the holding of joint hearings takes place with the applicants for the hearing bearing the out-of-pocket expenses of the travelling commission and their staff members; so there is no cost to the taxpayers of the jurisdiction that has moved.

The subject matter is timely in that there now has been some history from the United States since the deregulation of their rates. I could not forecast which way the commissions would go or indeed whether they would be uniform. The securities administrators in the jurisdictions involved, those with the main exchanges, have acknowledged that if one jurisdiction determines to deregulate commission rates, that in itself would have an impact on the financial markets of the other jurisdictions where there are exchanges.

In recognition of that, there is a gentlemen's understanding by the securities administrators that if one jurisdiction determines to deregulate commission rates, it will make the determination but postpone the effective date for some months to allow the other jurisdictions to react to the decision that has been taken.

I am reluctant to get into discussing that too much, from the point of view that it would sound like somebody has made the decision to deregulate, and that is not the case. The decision was made that we should discuss it because it would have an adverse impact if Quebec were to deregulate and Ontario were to regulate; that might be of some considerable disadvantage to the citizens of one or other jurisdiction.

The effective date postponement we have arrived at in this gentlemen's understanding—and I hasten to say that, because it is not a legally binding arrangement—is an attempt to allow the other jurisdictions to react if a reaction should be required.

The Ontario Securities Commission has

retained two expert witnesses to advise it in terms of what the impact of deregulation versus regulation would be and the consequences of it. One is a present commissioner of the Securities and Exchange Commission in the United States because of their familiarity and lead in the deregulation role. The other is Mr. Irving Pollack, a former member of the SEC and now a private consultant operating in New York and Washington. He was retained because of his great experience as a regulator and is now experienced as a person in the private sector seeing the impact upon it.

We have been very successful in getting those gentlemen to come at substantially reduced rates compared to their normal private and public sector rates. Although we think the remuneration is more than fair from Ontario's, the payor's, point of view, they have come on the basis of almost an international uniformity. They feel there is an obligation to bring us up to date on the current learning in the United States; so they have made their time available.

Those hearings are taking place in one of the courtrooms. I believe it is courtroom 19 in the new courthouse in downtown Toronto, which the staff of the commission arranged because of the number of people who will be attending it both as listeners and as speakers. It is anticipated that they will last up to three full days; so three days have been reserved for that.

Following that hearing, the Ontario Securities Commission will meet and ultimately will make a recommendation to the minister as to whether the rates should be regulated or deregulated, depending on the testimony that is brought forth and the impact that one or the other may have on the capital markets of the province.

Mr. Renwick: Would you hazard a guess as to the time you would need to consider it and make a recommendation to the minister?

Mr. Knowles: I think it is of sufficient importance to those people who charge the rates that they not be kept waiting, so they can do their economic planning. I would hope the hearing would be concluded by the end of November, which is what we have planned for.

Bearing in mind that December is a somewhat broken month with holidays, I would hope there would be a written decision of the commission with a recommendation to the minister by no later than January 31 and hopefully before.

Mr. Renwick: Thank you. Mr. Chairman, that fairly well completes the status of that.

12:10 p.m.

Mr. Knowles: Because it seems to flow along the same lines, I would like to speak to Mr. Renwick's comments concerning the uncommon equity security hearing that took place in this city in September.

This is perhaps one of the most difficult ones for me to address. The holding of the hearing was not so difficult, but the trappings that went with it caused the commission to receive a great deal of criticism, some of it justified and some of it unjustified.

Perhaps, with your indulgence, I will just go back into the history of it a little bit so it can be more easily understood.

Last year there was some concern over the use of uncommon common shares in the public marketplace.

Hon. Mr. Walker: I think defining uncommon common shares might be beneficial to those in this gathering today.

Mr. Knowles: The concept of uncommon common shares comes from trying to distinguish what historically has been known as a common share, which is a share that has the residual equity in the corporation, or the ultimate ownership, if you will, and carries with it the democratic franchise of one share, one vote. The roots of that go back to the United Kingdom of many decades ago.

Over the years, the capital structure of corporations has been varied. In large part, the common share has remained the ultimate democratic instrument of residual ownership. The term "residual ownership" means there are claims on the worth of the corporation that take priority over the common share. The easiest understood is debt, which ranks as the head of any share. There are different types of debt, as you are well aware, secured and unsecured, down to the preferred share, which generally ranks ahead of any form of common share as a claim against the assets and the income of the corporation.

For many years, there existed nonvoting preferred shares, and that was a very common capital structure that consisted of common shares owned by the ultimate owners of the corporation and preferred shares owned by those who wanted a prior claim, generally in the event of dissolution and in the event of prior claim on the annual income of the corporation. There were many varieties of those securities, and I will not bore you with them.

With the advent of the Gift Tax Act refinements in the old Income Tax Act, the one prior to 1971, the tax planners found it difficult to use

the capital structures that were then available to accomplish tax-free gifting and to shrink the size of the estates that would be taxed by the federal authorities.

Around that time, and there is no precise date, imaginative lawyers and accountants started coming up with variations of the old tried and true capital structures that would save their clients taxes. With the advent of the new tax act and the difference in treatment for capital gains and income, it became increasingly important to be able to play with the capital of the corporation again for the purpose of saving federal taxes for your client.

Following that, the legislatures of some provinces and the federal government embarked upon programs that required, by virtue of the law, discrimination against some people. There are discriminations against non-Canadian citizens and residents and other classes. There are discriminations against the number of shares individuals may hold. All of those things led to further refinements of the capital structures of corporations.

As these things happened, the public marketplace found that it was advantageous, from the point of view of the issuer of securities and of that issuer's agent seller, the financial intermediary, to classify some of the shares that did not have the full historical rights that attach to the common share. It made the marketing of those shares easier from the point of view of the issuer and its financial intermediary, because you were selling common shares, which carried with it a whole panoply of thoughts and concepts.

The uncommon share is a share that is sold as a common share. There are many variations of it, so it is difficult to talk without notes in front of you. The two main variants are the uncommon share of class one, if you will, which has no vote, and the uncommon share that has one vote while the common share of the same corporation has multiple votes—hundreds or thousands—so that the one vote is an illusory participation in the democratic affairs of the corporation.

Those securities, being in the public market, themselves create only one problem; in association with the shares that carry with them voting control, they create a multiplicity of problems. The problem they create in themselves is that in takeover situations the uncommon common shares do not participate, in many instances, in the premium that is being offered to take out the true controlling voting shares of the corporation. In addition, in a takeover situation one can go after only a set class of shares. So to take over

a corporation controlled by Mr. Renwick, I would have to acquire only his common shares and I could ignore the uncommon shares held by the minister, which would then leave the minister holding his uncommon shares at the whim of a new master if it had control of the corporation.

I am not in a position to disclose names, but there are issuers who, it is generally believed, have abused the marketplace by the treatment they have accorded the security-holders of their corporations who hold uncommon shares. The uncommon share does not necessarily get the right to participate in a meeting, to speak or whatever.

The two main abuses come from the inability to participate on a pro rata basis in a takeover and the inability to have any direction over the affairs of the corporation, all while one is holding what is supposed to be a common security of that corporation.

The benefit from the issuer's point of view obviously is that one gets tremendous leverage by issuing what appears to be common stock rather than debt and getting to use the leverage to enhance the residual value of the true common share at the expense of the person who has put up the leverage money in the uncommon share. This concern was shared by other commissions, particularly those in the provinces of Quebec and British Columbia and, to a slightly lesser degree, the provinces of Alberta and Ontario.

Discussions took place and a decision was made to call a public hearing to inquire into the utilization of these types of securities in the public marketplace, not in anything to do with tax planning for private individuals and private corporations but with regard to whether it was an appropriate instrument to have in the marketplace for the public.

The calling of that hearing took place last spring, and it was set for some time in the fall; I have forgotten when, because the dates have been changed on many occasions.

All was quiet. Then one day during the latter part of July, I think—though I could be out of sequence by two or three weeks in either direction—I received a call from the chairman of the Quebec commission, who told me he had been advised that a buildup of proposed new issuings of uncommon common shares was to hit the marketplace before the scheduled date of the hearing so that grandfathering status could be claimed in the event that the hearing

took place and it was determined that the uncommon common shares should not be allowed in the public marketplace.

12:20 p.m.

As a result of that call, I spoke with the superintendent of brokers in British Columbia and with the chairwoman of the Alberta Securities Commission, Joanne Veit, who is now Madam Justice Veit of the Alberta Supreme Court. I also spoke with Mr. Bunting, president of the Toronto Stock Exchange, and the chairwoman of Alberta and the superintendent of brokers in British Columbia spoke with the corresponding executive officers of the exchanges in their jurisdiction, as indeed did Mr. Guy speak with the president of the Montreal Stock Exchange.

Those conversations took two or three days to take place, because people had to wait to get answers and so on. It was determined by the exchanges in the provinces of Quebec, Ontario and British Columbia and by the commissions in Ontario and Quebec and the superintendent in British Columbia that a moratorium should be placed on the issuance of new securities of the uncommon common type.

Alberta determined that it wasn't relevant to the province of Alberta, and indeed Alberta may well encourage the use of uncommon common shares because of the peculiar nature of the financing that was required in that province to foster particularly the development of the oil, gas or other related natural resource corporations in that jurisdiction.

The moratorium was announced as a joint moratorium by the three securities administrations in those jurisdictions. At the same time, the exchanges in those jurisdictions introduced a moratorium on listing additional securities of that type.

Although I have told you that it took place over some days, it was also done under pressure to try to get something out. The first announcement that went out was too broadly worded and it created near panic on the street. It appeared from a reading of the announcement that went out that there could be no preferred shares or almost any other type of security you could think of. You might have been caught by it.

We reacted to that by attempting to amend it and by saying we weren't talking about nonvoting preferred shares or anything like that; we were talking about the uncommon common shares. That relieved some of the pressure or animosity that was building up, because the commission, with the others, Ontario being the

lead, was considered to have acted in a heavy-handed fashion and to have threatened the efficiency of the capital markets by so acting.

In an attempt to get around that, we sent out a further announcement saying we didn't intend to catch preferred shares and we didn't intend to catch anything, in effect, other than uncommon common shares.

There was considerable pressure to lift the moratorium. We resisted that, because it appeared to us that the information which the chairman of the Québec commission had received, that there was a buildup to potentially claim grandfather status, was correct information and that this was inappropriate. So the moratorium stayed in place and, indeed, it is still in place to this day.

Some of the criticism that came in was very justified. It came in, for example, from the Nova corporation, the old Alberta Gas Trunk Line Company Limited, where their share structure is fixed by statute in the province of Alberta. They have these securities by statute, and there is nothing they can do about them. We received legitimate criticism from people subject to the Canadian Radio-television and Telecommunications Commission regulations, which require that you have a constrained share.

In recognition of the legitimacy of some of the criticism, the hearing was advanced by, I believe, some four or five weeks from its original date in the provinces involved. All agreed to the advancement of it, and indeed Alberta asked to be included in the hearing.

The hearing took place, I believe, on September 23 or thereabouts of this year in Toronto. The superintendent of brokers was there; the acting chairman of the Alberta commission was there with one of his commissioners; one of the vice-chairmen and one of the members of the Quebec commission were there, again as official observers for the reasons I gave before; and several of the Ontario commissioners were there.

I believe, and I am going by recollection, that 91 briefs were submitted, which is the largest number of briefs that had ever been submitted to the Ontario Securities Commission on anything it had put out for public comment. Numerous witnesses appeared, including the Toronto Stock Exchange and the commission staff.

I should back up for one moment on that. Of the 91 briefs—if that's the correct number, and it's certainly within two or three of the correct number—there were about three that advised

us to leave the situation alone. The bulk of the writers of the briefs, as you can imagine, were corporations that either had or were planning to have uncommon common shares.

All of the briefs, other than the three or four to which I have referred, acknowledged that the uncommon common share, if it were to be continued in the marketplace, should only be continued in the marketplace with some variations.

There were two prime areas of variation on which almost all agreed; there were many variations within the agreement, but I am speaking of broad areas of agreement, if you will. First, they agreed that the disclosure requirements were insufficient and should be substantially changed. Indeed, some suggested that if the securities are to be traded on the exchanges, as it's proposed they should be, either they should be designated as nonvoting shares or given some kind of designation to warn the reader that they aren't the ordinary common shares, or they should be reported in a separate section, not in the standard stock quotations in the newspaper, like the unlisted or the over-the-counter trading.

The other broad area on which almost all agreed there should be some variation was in the takeover area: there should be some requirement that in a takeover situation the uncommon common share be required by some formula or process to be allowed to participate in the takeover situation, whether you place the obligation on the offerer in a takeover or on the offeree.

Indeed, many of the corporations that appeared before us through their officers or agents had made private agreements to the effect that, if the common share were taken out, in some agreements some of the uncommon shares would immediately become voting, and this would put the obligation on the offerer: he's going to have some voting securities out there.

In other agreements, if the owner of the common share takes the takeover bid, he will only take it if he gets a corresponding offer for the uncommon common share. In still others, they said: "That's just the marketplace: caveat emptor. The premium in the takeover is mine, and if they are left they are left. They knew that when they came in." This is the philosophy espoused by disclosure-means-everything and no blue-sky requirement, if you will, in terms of how they are marketed.

The hearing took place. There had been some discussions with our fellow commission-

ers. The province of Alberta had determined to hold a further hearing, because they now participated in this hearing as a joint hearing in Ontario. To give their local residents, the inhabitants of the province of Alberta, the opportunity to be heard in their own province, they asked us, Quebec and BC if we would defer action on the hearing we would have in Ontario while they gave notice of and held a hearing in Alberta where local representations could be made. I believe this hearing was to have started on October 28 and was not expected to last more than two days, because most of the people from Alberta had given briefs here.

The one area in which there was speculation that there would be some new testimony, if you will, came from the presentations at the Toronto hearing by the Toronto Stock Exchange and by the Ontario Securities Commission staff.

The participants, the 90 or 91 people who responded, said before our hearing that they really hadn't had time to digest the recommendations being made by the stock exchange and the OSC staff and they wanted the right to make further comment.

We invited any who did to write to us—we collectively; the other provinces, not just Ontario—and several said they would make their representations on the Toronto Stock Exchange brief and the Ontario Securities Commission staff brief before the Alberta commission and would send us copies of the presentations they made. The odd letter or two of representation on that is now starting to trickle in.

I expect that the decision following from that hearing will be out by the end of November or the middle of December. There was great fear that there would be an immediate delisting of the securities on the market if the decision were against the securities and that this would abuse people in the marketplace and small investors who had bought the securities at the outset of the hearing with the concurrence of the other jurisdictions present.

12:30 p.m.

I stated that there was no intention of ordering the delisting of any securities that were currently on the market. In the event that the hearing went to the effect that there should be some restraints on uncommon common shares, the grandfather status would be recognized somehow. Because you can do it in a multiplicity of ways, I tried to be general. Just leave them alone; then you have to question additional issues of the same securities, ordering a change of them over 10 years.

There is a whole spectrum of ways of dealing with it. I am obviously not in a position to disclose the discussions I have had with my fellow commissioners on our views of the evidence presented to us, nor am I in a position to share with you at this time the views that those in other jurisdictions have been kind enough to share with us.

The commission will decide to what extent it requires action by the Legislature or consideration by the Legislature. I assume that the minister would bring it before the Legislature or a committee of the Legislature for discussion. To the extent that it becomes a nonissue, I assume those who are interested will note it and pass on.

That is a fairly accurate statement of where we are at the present time in terms of the uncommon equity. I reiterate that the calling of the hearing was not so much a lightning rod, but the moratorium certainly was and continues to be a lightning rod for adverse comment on the Ontario Securities Commission and obviously, through that, on its parent, the Legislature of the province.

Mr. Renwick: I appreciate that lucid statement about a difficult area. Thank you.

Mr. Knowles: Mr. Chairman, Mr. Renwick also commented on the increasing use of the vehicle of limited partnerships in the public marketplace. Those in the recent past, anyway, generally have been limited to the private placement sector, the small group of people.

I have some knowledge of this from my background in the private sector, and that has been augmented since being at the commission. With the advent of the federal taxation scheme in 1971, the use of a corporation became economically disadvantageous in many circumstances, particularly in startup situations.

As a result of that act and the incentive programs initiated by the federal government in the areas of encouraging the formation of capital for natural gas new ventures and for the building of multiple-unit residential premises, going the route of partnership was the easiest vehicle to achieve tax savings that were intended in many instances, and unintended in some, by federal authorities. With the spectre of unlimited liability, or in some cases limited but huge liability, the limited partnership became the popular vehicle to deal with.

The sophistication of the use of limited partnerships developed largely in Alberta because of their natural gas background. The people in Alberta were by far the leader in developing

these vehicles for public market use. Advisers in other jurisdictions, as you are aware, sir, from your background, did not take long to find out that marketing the securities was an advantageous route to augment their own pocketbooks. They were used increasingly; indeed, the Ontario Legislature saw fit to amend the province's Limited Partnerships Act last year, I believe, to bring it up to date in terms of the modern economy.

They are used increasingly; unless federal tax laws are changed substantially, they will continue to be used increasingly. It has created some difficulty for the administrators of securities laws. Dealing with the old-fashioned, still-in-existence corporate vehicle, administrators had a great comfort level, in terms of the blue-sky element of their obligations, from the corporate law that imposed rights on or for shareholders, how to settle disputes, entitlements to information, entitlements to meetings and so on.

None of this exists in the area of limited partnerships or indeed partnerships themselves, other than the old common law which was somewhat cumbersome in today's economy and society. Attempting to create a constitution from which individual's rights would flow, there being no constitution in terms of a corporate statute, the prospectus clearing function of various administrations had to review, in detail, partnership agreements consisting of many pages.

That created a large backlog in various commissions' prospectus clearance operations, because each document in effect became a tailor-made document. You could rely on nothing that said it is a corporation under Alberta law. You know what that meant. You simply had to sit down and read the partnership agreement and try to think of all the loopholes that are in it or not in it, then pass on it from a blue-sky point of view as to whether it should be available for marketing in this province.

A large element of this tailor-made aspect still exists. It slows down the prospectus clearance function which creates its own waves backwards into the whole system. Until some form of legislated mandate as to partners' rights exceeds that as currently exists, that problem is going to continue.

Another area of concern with these financial instruments, if I may call them that, is that the secondary market has no effective way of dealing with them at the present time. By that I mean, for those committee members not quite current with how capital markets operate, if you

buy a security and it is listed on an exchange, you are all quite aware it is very easy to sell it through the mechanisms of the exchange. If you buy an ordinary common or preferred share on the over-the-counter market, there is a trading market.

If you buy an interest in an Alberta oil and gas limited partnership, or an Ontario mining limited partnership or a multiple-unit residential building in Scarborough and you want to sell it, to whom do you sell it? To whom you sell it is the secondary market.

We continue to discuss with The Toronto Stock Exchange, other administrators and other exchanges, to see what mechanism can be put in place that will create a marketplace, a secondary marketplace with appropriate safeguards.

At the present time, The Toronto Stock Exchange has a discussion paper out among its own members on dealing on the secondary marketplace and whether there should be quotes or over-the-counter systems or whether you could put them in the computer-assisted trading system of the Toronto Stock Exchange or something along that line.

Until federal tax laws are changed, I can only see the use of the limited partnership financial vehicle increasing in the capital markets. There will be attendant problems in that area until a universal partnership constitution exists, a shareholders' constitution, and until appropriate vehicles are developed, whether they are exchanges or something else for dealing with them on a secondary market.

Mr. Renwick, I think that will be a problem for the next five to 10 years. Under those securities that are currently outstanding, I think it will create some tremendous scandals. I think there will be some very unhappy and abused investors who have purchased these securities. They are new, they are innovative and they are going to carry with them both great rewards and great hardships as the next decade unfolds.

12:40 p.m.

Mr. Renwick: I appreciate again the explanation of the status of them. I recognize that the sudden resurgence of the use of a vehicle such as a limited partnership has such grave implications with respect to how people are dealt with once they are involved in public marketplaces.

I assume that the ministry, Mr. Minister, will ensure that our Limited Partnerships Act at least will be as current as is possible for an act to be to meet some of these problems that may arise, perhaps in anticipation rather than in reaction.

I know that the Premier (Mr. Davis) would be quite adverse to any suggestion that the longest floating crap game at Queen's Park should be reconstituted in the form of the select committee on company law, but I would certainly welcome a suggestion that it be reconstituted as a select committee on limited partnerships.

I am glad the chairman was forthright about the problems that will be created because of the use of this vehicle. I think studying it would be a very useful exercise.

I am never opposed to innovative uses of vehicles. That is not the point. Our problem is an understanding, a thorough public understanding about what the hell is taking place, which goes a long way to alert people to what the dangers might be. I simply make that as a comment and as a suggestion of something you might feel worthy of consideration.

Hon. Mr. Walker: Certainly the select committee on company law, which has run some significant time now, since about 1966 or 1967, has come to grips with a number of very complicated areas in the whole area of company law. Insurance law particularly is related to our own ministry, and many of the recommendations have found their way into law. It has sometimes taken a year or two for the reports to get in, but I know we still refer back to the reports.

Not too many days ago, the superintendent of insurance referred back to the 1976 report of the select committee. That is an interesting vehicle. It sort of touches on another question you commented on in your preamble yesterday; that is, the relationship of the Ontario Securities Commission to the Legislature, and how assembly members can come to grips with extremely complicated clauses and sections in an extremely complicated act that is very difficult to keep current and where the meaning of individual paragraphs, sections or clauses is difficult to understand.

But the select committee is an interesting route. We know a number of recommendations will come forward eventually from the commission. Some questions that may be addressed in the next six months or so involve uniformity as well. It seems an opportune time for us to blend into that the whole question of limited partnerships and some of the concerns that Mr. Knowles has about an impending decade and some of the problems and abuses that may develop there.

Perhaps all of these might well fold into the same kind of discussion that a committee might

deal with over a summer or over a winter. It does seem timely to funnel everything towards the impending summer.

Mr. Renwick: Mr. Chairman, I have advised by our whip that there is likely to be a vote before one o'clock on the interim supply motion.

Hon. Mr. Walker: We heard just the opposite.

Mr. Renwick: Did you?

Hon. Mr. Walker: We gather Dr. Smith is filibustering. That resolves the problem. Mr. Bradley might be more aware of it.

Mr. Renwick: There is a limited time in estimates. It certainly would be helpful to me if there were some way in which the information on the various other selected items could be available to the committee without taking up time at the expense of other areas that have to be dealt with.

In addition, I will not be here next week. I do not mind the odd innovation. If the chairman of the commission does not feel it is too burdensome a requirement, perhaps a synoptic statement on such other matters I raised as he sees fit to comment on at this time could be prepared. Perhaps there is some mechanism by which it could be appended to the Hansard report of today's committee proceedings, some way such as that, so those of us interested in it would have an opportunity to read it and to comment on it. I do not know whether that is a possible way.

Obviously many of the other matters are of equal concern and importance to me. I do not want to encroach on it, nor do I want to encroach on the time of the commission. This has been a very useful session for me. I would like it to go on longer. I would be quite happy if there were some way in which the commission, understanding what I hope will be a revived interest by this committee in the work of the commission, could append synoptic statements on the various matters to the report of our proceedings, and the work of the committee could go on into other areas.

Mr. Chairman: Mr. Renwick, the minister has indicated he thinks that is possible, to have it supplied in writing to the committee, in regard to the remaining questions you have. Is that satisfactory, Mr. Minister?

Hon. Mr. Walker: We could probably see that brief comments are provided on each of the matters raised remaining here. Some of the questions are very pointed ones.

Mr. Renwick: I would like to express my appreciation to the chairman for taking the time

to speak on the topics he has. I would be delighted to sit through another two or three hours to listen to the responses on all of them, but it is not fair to put that burden of work on the committee.

Certainly I, and certain of my colleagues in the Legislature generally, would be interested in maintaining some form of dialogue on these questions. I do not know what the method would be. We will have an opportunity perhaps to look at how we deal with the Securities Act amendments, if you, Mr. Minister, determine at some point to introduce them. Maybe that is when we should talk about the format of the committee meeting on a formal basis, but perhaps in advance so as to have the specifics of the amendments explained to the committee before they are introduced into the House.

It may well be the same thing would be appropriate at some time when the Toronto Stock Exchange Act and the Toronto Futures Exchange Act are before us. Perhaps the committee would consider striking a subcommittee to deal with that type of legislation so that at least some of us have some sense of what is taking place and have the benefit of the views of the commission and the reasons for a lot of these problems.

Hon. Mr. Walker: There will certainly be no amendments before the conclusion of this session.

Mr. Renwick: No.

Hon. Mr. Walker: That, by definition, puts it off until at least the spring.

12:50 p.m.

Mr. Chairman: Mr. Bradley had given way. Actually he was the first scheduled speaker, or the first one who had asked, and had given way to Mr. Renwick. Normally I would have asked Mr. Bradley to proceed. However, you saw him leave urgently.

Mr. Renwick: Mr. Chairman, it may well be that there is one other topic on the list that Mr. Knowles could speak to in the brief time available.

Mr. Williams: There is some indication that the House may be sitting beyond the normal one o'clock period, and I don't know what position that leaves the committee in. I would presume the committee would continue sitting until the House rises.

Mr. Chairman: Unless someone recognizes the clock, yes. Thank you, Mr. Williams.

Mr. Bradley, now that you are back, will you carry on?

Mr. Bradley: Yes. Procedurally speaking, Mr. Chairman, I would like to ensure that, if it would be possible to do so, the Ontario Securities Commission appear before us again on Wednesday as part of our deliberations and that, as part of the delegation, Mr. Bray be present if possible, since I will have some questions of him as well as of the chairman.

Hon. Mr. Walker: Mr. Knowles has indicated to me that, while he doesn't know exactly what Wednesday holds, public hearings are scheduled, and have been for several weeks, for next week. But I think he is prepared to see how possible it is to divert the public hearings and reschedule them in such a way as to accommodate the committee between 10 o'clock and its closing hour.

I think that would be most appropriate at that time, because I did want Mr. Renwick to have the opportunity, before he departed on government business for another jurisdiction, to ask these questions. He had a very detailed submission to the committee, and I think a very useful submission, on a number of topics that have concerned all of us.

We, as individual members, generally have a limited knowledge of the workings of the Ontario Securities Commission, unless we happen to be involved in corporate law or unless we happen to be very much involved in business. So we very much appreciate the contribution Mr. Renwick makes in that regard and find the subjects he has dealt with useful for members of the Legislature.

I also would like to concur with the view that, while we do not want to resurrect—I forget the exact terminology Mr. Renwick used—the select committee on company law, it would be useful for a committee of this Legislature to deal with the Ontario Securities Commission in some detail.

Since we are scheduled to stop at one o'clock, although I understand the House will continue to proceed—at least that is what I hear through the rumour mill—I would suggest that if there are any topics that were not covered or any last shot that Mr. Renwick wished to get in before next week, since he will not be here then, I would like to give him that opportunity now in the little bit of time that is left.

Mr. Chairman: Mr. Bradley?

Mr. Bradley: I was under the impression Mr. Renwick had not entirely finished.

Mr. Chairman: Mr. Renwick has made it

clear that he is not finished but that he would defer for the sake of argument on this. We have now gone approximately two hours and one minute right now on the commercial standards section, out of six hours; so we are one third of the way through. In fairness, I don't mean you have taken one third of the time and are being piggish about it, but we are only one committee member with one third of the time.

It was arranged that written replies would be made available to the committee for Mr. Renwick. So I would hope, Mr. Bradley, that you would carry on. Otherwise, we are going to be into real time difficulties and some of the same hassles we had in the spring.

Mr. Bradley: To answer that point, Mr. Chairman, that is why we in the opposition felt that seven hours would be more appropriate than six hours on this particular question, because we feel there is a good deal of detail to be covered. But it is up to the committee to make that kind of decision when we reach that point; I recognize that. I will proceed for the last two minutes, because I intend to call one o'clock when it is one o'clock.

First of all, I would like to talk in a rather general way about the role of the Ontario Securities Commission in the regulation of our capital markets. I have been reading in the clipping service that all of us have available about matters of this kind. I have been greatly interested by the recent trickle of rumblings emanating from the Ontario Securities Commission concerning its role as a regulator. Given how close-mouthed the OSC ordinarily is, a trickle appears to be almost a tidal wave.

One of the first signs that something was brewing was an interview Mr. Knowles had in the *Financial Times* this summer. The article, members of the committee will recall, was entitled "Workload Crisis at the Ontario Securities Commission." It described a commission swamped by its mandate.

Mr. Knowles was quoted as saying that, without changes, "A disaster is inevitable. People are becoming fatigued, frustrated and there are some commissioners whose health I am quite concerned about." Mr. Knowles further stated that unless the provincial government significantly reduces the OSC mandate as the country's top regulator, or significantly increases the commission's budget, the OSC no longer will be able to enforce the law properly.

The minister's recent comments on the OSC have been rather intriguing. He was quoted

recently as saying, "I have heard from people involved in the marketplace, criticism that the Ontario Securities Commission is involved in too many fields, and it has given me cause for concern." It is further reported that the minister wants the number of OSC hearings cut severely and for the administration of the Securities Act to be handled in a much more rigid fashion, with an emphasis mainly on disclosure.

Let me pause for a moment here, Mr. Chairman, because I would appreciate it if the OSC could expand on these issues—the matter of overload, the suggestion of cutting back. How does this affect your image of what the OSC should be? At this point, it is one o'clock, and perhaps that is where we could begin on Wednesday.

The committee adjourned at 12:58 p.m.

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From the Ministry of Consumer and Commercial Relations:

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No. J-13

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of Consumer and Commercial Relations



First Session, Thirty-Second Parliament
Wednesday, November 4, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, November 4, 1981

The committee met at 10:18 a.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

On vote 1502, commercial standards program; item 1, securities:

Mr. Chairman: We have a quorum in place. We are in the midst of item 1. Mr. Bradley had the floor, having spoken for seven minutes. We have 17 hours and seven minutes remaining in the estimates and, if you wish to keep track, we have used two hours and four minutes of the commercial standards section on which we are working towards using six hours in its entirety.

Mr. Swart: We had agreed that some time would be given to the Rembrandt Homes matter during this vote. I am wondering if it is possible to agree that could be done this morning, perhaps between 12 and one. I am not particularly anxious to move a motion but I want time set aside, primarily because some of those people want to be here when this matter is being discussed. We did agree that it would be discussed under this vote and I think it is not unreasonable to expect that we would set a time for it.

Hon. Mr. Walker: Mr. Chairman, allow me to make a comment on that. It is very proper in the estimates process to have the necessary people present for discussions. It is fair to say that at the moment we are involved with the Ontario Securities Commission. Mr. Knowles is beside me as chairman of the commission. There is a modest amount of havoc created when we juggle their agenda around. For instance, their scheduled hearings today have been fouled up by the presence of Mr. Knowles here as opposed to back in the shop where the hearings, having been scheduled for some time, would normally be played out.

We now have our people here and I would want the securities matters to be basically dealt with. I know that the commercial area vote we are in at present represents also all of business practices and all of financial institutions and I know that ultimately you will undoubtedly want

to have words of wisdom from Mr. Simpson, who is executive director of business practices, and from Mr. Thompson, as executive director of financial institutions.

For the moment, rather than disrupting the whole process, I would like to see us eliminate the Ontario Securities Commission from further discussion. If by 12 o'clock you have arrived at the point, which I suspect you will not have, of eliminating further need of the securities commission, then I suppose there is no problem. At the moment we do not have Mr. Simpson here because we are on the securities commission.

All I am saying is that you are creating some havoc with some of your proposals. As long as you go through and ultimately digest all you need to have in the securities field so we can dismiss the securities group which is here today, as long as that is understood then I do not think we have any serious concern.

It is not that we are trying to foreclose any discussion of Rembrandt Homes but this is the first time Rembrandt has come up as an item to be scheduled for today. We would not normally have thought that Rembrandt would have fallen into today's discussion. I would have probably put it a little later on, thinking that you would want to eliminate the securities commission as a discussion area and then eliminate some other areas.

All I am saying is, please have some consideration for some pretty high-priced help and some pretty strong inconveniences that are occurring with the public, in things like hearings and other matters. Before you do set up a new timetable for some aspects of it, I would appreciate if you would just take that into account. I only question if you will be through with securities by then.

Mr. Swart: Mr. Chairman, I was not attempting to put it on at this time or even before the securities was complete. I am anxious that we do not take up the full six hours in securities because, by the sort of verbal agreement we have, there is no division of the six hours for the other sections of this vote. I want to ensure that there is room left, as I am sure everyone here does, for other sections in here.

I thought that after we had finished the

securities section perhaps we could go to the Rembrandt Homes matter when Mr. Simpson is here. It was not my intention for a minute to displace the Ontario Securities Commission now with some other issue about which they are not concerned.

Hon. Mr. Walker: I am probably overreacting to your comment, but if we can just get the securities field resolved and dispatch these gentlemen to earning money for the province, then that might be—

Mr. Swart: I would like to hear, if I may, Mr. Chairman, from some other members of the committee, although we do not want to spend all of our time on the allocation of the time. It would seem to me we must set a goal of completing the Ontario Securities Commission today; we have used more than two hours out of six. It will be four and a half hours gone today and there will only be an hour and a half for all the other things.

Mr. Chairman: Mr. Swart, Mr. Bradley was nodding his head in concurrence with finishing the securities commission today. Is there anyone who doubts that we will finish the securities commission today?

Mr. Bradley: Mr. Chairman, it is obvious that we are going to have to spend some time on other items and I would like to stay as close to the guideline as possible, even though at the time it was changed I expressed the point of view I thought six hours would be short for this section. I still think we should try to stay within that figure.

I share Mr. Swart's concern about the Rembrandt Home Owners' Association and the problems they have experienced, and I would hope that upon completion of the dealings with the securities commission we could deal with that. I know that Mrs. Campbell, the former member for St. George, expressed grave concerns about this; and both Mr. Swart and I, as the opposition critics, have received considerable material and we would like to explore this with the minister. I think that would take place probably after completing the securities commission.

I do not anticipate the people from the securities commission are going to be with us that much longer, because Mr. Renwick did explore a number of items with them previously. I would like to deal specifically with the conflict between the minister's point of view and Mr. Knowles' point of view, the apparent conflict that we see in the media; and also with Re-Mor,

Argosy and perhaps a couple of other items—not in great detail, because obviously we do not have the time to deal in great detail, but I have certain questions I would like to ask touching on those matters.

Hon. Mr. Walker: I am not uncomfortable with that. I assumed when I came in that we were going to be on the securities commission all morning, but what you are saying is securities will be not as long as I had envisaged when I came in here.

Mr. Bradley: You can never tell in this committee, but we would hope there would be perhaps a half hour at the end when we could deal with other items. Certainly the main thrust today will be on the Ontario Securities Commission.

Mr. Chairman: Thank you, Mr. Bradley. Would you then carry on?

Mr. Bradley: Yes, I will carry on. I will take a minute or two just to go over some of remarks that I have prepared so we get them in the context of last day in fairness to Mr. Knowles and Mr. Walker. I will go over my comments from last day.

I indicated that I would like to talk generally about the role of the Ontario Securities Commission and the regulation of our capital markets, and that I have been greatly interested in what I referred to as the recent trickle of rumblings emanating from the Ontario Securities Commission concerning its role as a regulator. As I described it then, given how closed-mouthed the OSC usually is, the trickle had appeared like a tidal wave.

One of the first signs we had of something brewing was an interview with Mr. Knowles in the Financial Times this summer. The article was entitled: "Workload Crisis At The OSC; Systems Swamped, Investors At Risk." This was on July 27, 1981.

In that article, Mr. Knowles described a commission that was swamped by its mandate. He is quoted as saying that without any changes "a disaster is inevitable. People are becoming fatigued, frustrated and there are some commissioners whose health I am quite concerned about."

Mr. Knowles, you will recall, further stated that "unless the provincial government significantly reduces the OSC's mandate as the country's top regulator, or it significantly increases the commission's budget, the OSC will no longer be able to properly enforce the law."

The minister's recent comments on the OSC

have been, as I described them, intriguing. He was quoted recently as saying, and I quote the minister: "I have heard from people involved in the marketplace criticism—

Hon. Mr. Walker: Excuse me for interrupting for just a moment. Mr. Knowles is a slow writer and he is writing everything down you are saying here. Just slow the pace a bit and you will solve his problem.

Mr. Bradley: I was doing it for the committee's sake because I am going over old territory. Perhaps I will hand the sheet to him eventually and he can glance at it, Mr. Walker.

The minister's recent comments on the OSC have been intriguing. He was quoted recently as saying: "I have heard from people involved in the marketplace criticism that the Ontario Securities Commission is involved in too many fields and it has given me cause for concern." It is further reported that Mr. Walker wants the number of OSC hearings cut severely and the administration of the Securities Act to be handled in a much more rigid fashion, with an emphasis mainly on disclosure.

I want to pause for a moment there. I would appreciate if the OSC could expand on these issues: the matter of overload; the suggestion of cutting back; how this affects your image of what the Ontario Securities Commission should be.

I will give this to Mr. Knowles because I know it was hard for him to follow my remarks word for word. I do not have any secrets on that.

Hon. Mr. Walker: Let me just answer one aspect here before I ask Mr. Knowles to answer your questions.

It has to be appreciated that the new act came in just a short while ago. Naturally, there are growing pains as we adjust to the act's ramifications. Appreciating to some extent what the act actually says—it is a very complicated act, you have had it in front of you—appreciating where we go in it, and ultimately seeking out our own level, it is logical that there would be some concerns.

I know that Mr. Knowles—and he will explain this further—raised these questions with me relatively early in my term, that we had to make some decisions on which direction we should head into as a primary securities commission in Canada; whether we wanted to consider going into various models, such as those similar to the model used in British Columbia, which is a much reduced one somewhat similar to the one

in Quebec, which is quite different to ours, or similar to the one in Washington, which, of course, is somewhat different again.

10:30 a.m.

Those are parts of the ongoing discussions. It is fair to say that we have been in constant discussion on matters touching on many of these points, and much of it relates around budget over the last period of time.

Mr. Knowles might like to answer more directly the question you have raised and I would ask him to do that now.

Mr. Knowles: Dealing with the first portion of Mr. Bradley's query as to the role of the OSC in the regulation of the securities markets, before I get into that part of the question I would like to tie that, if I may, into part of one of Mr. Renwick's unanswered questions as to where the OSC is at the present time, where it proposes to go and how that relates to the legislative mandate versus the bureaucratic mandate.

The commissioners of the OSC, and I believe I can speak for them unanimously at this time, are fully aware and acknowledge completely that the prime authority in Ontario is the Legislative Assembly. In that connection, any of the actions that have been taken by the OSC commissioners during my tenure have not been taken with a view of assuming that the mandate of the commission exceeds that of the Legislative Assembly.

The statute under which we are operating primarily, the Ontario Securities Act, states that the commission is responsible for the administration of that particular statute, unlike many statutes that you as legislators have passed, that say a particular minister is responsible for the administration of that statute.

With that frame of reference, it has been our view that, because of the discretionary sections in the statute, we are to apply our judgement to those sections; and, if we are incorrect in our interpretation of those sections or the exercise of our mandate, it is for the Legislative Assembly or the government, or both, to either amend the statute and the regulations or replace us in our office because of not fulfilling the intent the Legislature had behind it when it passed the statute.

That ties in part to the rather high media profile that attended the nondelivery of the confidential documents last year. In the exercise of our discretion we felt it was improper to breach the confidential rules. It was not meant

to be an affront to the Legislative Assembly. We felt it could be dealt with by the passage of laws or regulations by that assembly.

In short, what I am saying is that the commission in no way intends to put itself up as usurping the function of the Legislative Assembly. In that connection we have a great deal of difficulty, as individual commissioners, in drawing the line between arrogance—which it would be if we were to usurp or attempt to usurp the function of the Legislative Assembly in nonfulfilment of the things we have taken an oath to fulfil—and the exercise of our own discretion and not the Legislative Assembly's discretion in the administration of the various sections in the Securities Act. It is a very neat line to walk. It would appear during my tenure that we keep bouncing off the walls on either side.

Going from that small lead-in, which I think will take care of one of the questions that Mr. Renwick left with me, to the role of securities regulation first, if I may, and then superimpose the role of the commission on top of that: the securities markets of the province are, I suspect, more correctly described as the capital markets. Those markets exist for the transfer of funds from the savers of funds to the users of funds. There has been a hot and heavy current debate on deregulation or "Reaganomics," or what have you, in terms of a *laissez-faire* society.

At the present mode in this province we have built tremendously on the experience of the federal government in the United States of America, where they have moved to a disclosure statute, their statutes 33 and 34, on the basis that informed investors can make their own decisions as to whether to part with their funds for other economic interests issued by corporations or other vehicles, other legal entities, in the hope of enhancing their wealth.

The securities laws do not ensure that you will have your expectations realized when you part with your funds. The investment process, by definition, in the area in which we use it, involves risk. Risk is associated with benefits; the greater the risk, the greater the potential reward; but also, on the down side, the greater the chance of losing your economic interest.

On that basis, the commission staff, under the mandate of the act, reviews documents such as prospectuses, and attempts to ensure that the information in those documents is accurate; but the commission staff does not weigh whether or not the individual should be swayed by that document and part with his funds.

Thus, the role of securities regulation in this province is, under the present format, an attempt to provide the investing public with timely, full information, based upon which the individual can make a personal liberty choice to invest or not invest.

The markets then move into what are called the secondary markets, and with the assistance of the self-regulatory organizations, such as the Toronto Stock Exchange and the Investment Dealers' Association, you try to see that the same basis exists in the secondary market. That is, that there is timely, full information available, not only for present shareholders or present security holders, but for potential investors.

That is an area that has existed for some time, but not in the consciousness of a lot of people in the capital markets; and almost everyone in the province is in the capital markets in some form or another, whether you have funds with a credit union or whatever, you have parted with your money for something in return.

There was a school of thought that said that if the existing security holders make decisions, that should be fine; but that ignores the provision of the appropriate information to the potential investors as to whether they should buy your security from you, or refuse to buy it from you on the secondary market if you are selling on an exchange.

So you take that same general thrust and impose it on the secondary markets, and in provincial economics the cost of carrying on the secondary markets is borne by the private sector participants through the self-regulatory organizations. This, I suppose, is a delegation of taxing authority to a nongovernment agency in effect, but it is done on a very timely and very efficient basis, and as a regulator we are quite pleased with the operation of those self-regulatory organizations.

They, through their different devices, ensure that information is disseminated quickly. When there is a delay, as for example very currently, the self-regulatory organizations, with the assistance of the issuers, put a halt on the trading of the Dome, the Hudson's Bay Oil and Gas and the Bay stocks yesterday pending an announcement, which came out last night, that a resolve had been reached where they hoped to go to the Alberta courts with an arrangement under the federal laws that will provide for it.

So the trading was stopped so that information could be well disseminated, and the media plays a big role in that. Rather than taking out

ads, it is timely, so they produce and disseminate it largely. One would assume that trading will be allowed to commence again, if it has not already, within a few short hours on the basis of the dissemination of the information by the media.

That is the general role of the securities markets. You want to move the funds from the savers to the users to increase the capital plant of our province and our country, in the hope that over the long range you create jobs, a nice standard of living and those types of things.

If those capital markets are perceived to function in an inequitable way—for example, insiders taking advantage, which was perceived in the late 1920s and early 1930s; it was not necessarily a fact, but it was the perception—or if it is perceived there is the danger you will get clipped on it, people will not put their money up and you grind down the whole process of development of our economy, nationally and provincially.

10:40 a.m.

Then the Legislative Assembly, from the period of the very late 1960s until the late 1970s, went through, I believe, six or seven draft bills in an attempt to come up with a securities law format for this province that was acceptable to the assembly.

In due course, in 1978, the present statute was brought into existence, and it imposed a radically different form of securities regulation for the capital markets of this province, known as the closed system.

This is simply understood, I think, by putting everyone in a box and you cannot get out of the box unless you can find a way authorized by the statute; or the other alternative, the commission exercises its discretion and says, "In your case, we will let you out of the box." That is basically the closed system and it is basically the securities system of this province.

One of the ways out of the box recognized by the statute is issuing prospectuses and those types of things. Another recognized way is to sell a security of a value in excess of \$97,000, and that is what is referred to as the wealthy, well-advised exemption. If a person can pay \$97,000 he does not need the protection of the government through the statute in parting with his money. Those are decisions that you people, as legislators, made and passed in the statute.

As the minister said in his initial reply through the chairman to you, Mr. Bradley, the statute came into being in 1978, and only fully came into existence in, I believe, March of this year,

when the last drag fell off and we were into "the new system," which is rapidly becoming an old system.

That system has brought many new things with it. It has brought a large degree of delegated discretion from the Legislative Assembly through the ministry to the commissioners. It has a broader range of discretion than existed prior to 1978, and I think it is not unfair to go so far as to say that the Legislative Assembly in effect has given discretion to the commissioners, acting in quorums and all those nice things you have to have, to exempt totally particular individuals in particular circumstances from the legislative ambit of securities regulation.

That leads me to the point that the proper role of the commission is not that of a heavy hand on the capital markets. It is not that of protecting minority shareholder rights, which it is often confused with. The Legislative Assembly has created the Office of the Ombudsman and that is where people with specific complaints go, or they exercise their normal civil rights through the civil courts. It is not an arm of the Attorney General, a policeman. We have investigative staff and all those things, but we are not a police force.

We are a force in total that has been brought into being by the Legislative Assembly with no self-interest to protect. I think the fact that the chairman comes up for a short term and is not a full-time career civil servant is a practice of the government and the Legislative Assembly to ensure it does not become a bureaucratic nightmare with people building fortresses for power bases and what have you.

The commission consists of nine commissioners: seven are part-time; one, like the chairman, is drawn for short-term tenure, a two- or three- or four-year type of thing; one is a career, full-time civil servant, the vice-chairman, Mr. Bray, who has been in the business for 30 years. Most of those of my predecessors I have personally known use him as a walking encyclopaedia. I do not know what we do when we lose Mr. Bray, and he is coming close to retirement age, unless somehow we can get it all out of his brains on to paper before he goes.

The role of the commission is to be the disinterested umpire or referee, but the rules of the game—if I may use that expression, and it is a bad expression—mandate that on certain occasions we get down into the trenches with the players. That annoys the players a great deal. It creates friction, complaints to legislators and complaints to ourselves as regulators.

Mr. Bradley: I will question the minister a little later on about this, but apparently you and the minister have a conflicting point of view, you feeling it is the role of the commission to get down in the trenches with the players, and Mr. Walker feeling you should not, that disclosure is everything and stay out of the trenches. Would it be fair to say that about the differences?

Mr. Knowles: I cannot speak for the minister. I was leading up to giving you my perception of the question you asked and I was trying to provide a framework within which it would fit. The minister will have to speak for himself. He does so, rather eloquently, from time to time.

I was trying to get to what we in fact do. Mainly we fill a referee-umpire role, but occasionally we get into the trenches because we have to do so in separating self-interest groups which have come into conflict with one another.

Occasionally we assume the mantle of the player who is not on the field. If the particular field is between a majority shareholder and an issuer, and a minority shareholder is not represented in the arena, we may put on the mantle of the minority shareholder and get in and fight. On occasion the majority shareholder has not been represented and it is the minority which is making a tremendous noise—as pressure groups can—so we put on the mantle of the majority shareholder and go down and say “No.”

It is the whole thing that is supposed to work, not just a component. If one component gets out of proportion or out of sequence, you destroy the whole capital market. It is a single thing composed of many parts and all parts must work in harmony, one with the other. That leads into the articles in the newspaper to which you have made reference.

I will deal with the first article you mentioned, in which I was speaking on the “work load crisis,” as the notes you kindly left with me call it. I can give you my perceptions of the minister’s perceptions, but as you said yourself, it is better that you ask the minister for those. I would like to state quite categorically, without equivocation or any hesitation or doubt, that there is absolutely no conflict between the Minister of Consumer and Commercial Relations and the chairman of the Ontario Securities Commission.

Accept for the moment—test it later on, certainly—that there exists in fact a chairman of the OSC who has been there a year and a quarter to a year and a half, and a Minister of Consumer and Commercial Relations who has been there less than a year. Both of them have a

statute that has only been fully enforced since March of this year. It was initially passed in 1978 and brought into existence, I think, in the late fall of 1978 or thereabouts.

During my tenure, which started in July 1980 when Mr. Drea was the Minister of Consumer and Commercial Relations and before the present minister assumed this office, takeover fever hit the economic climate of our country, for whatever reasons. Most of us believe it is because there is no longer an opportunity for building a business in this country, so one takes over those that already exist. It is the only economically sensible thing to do. That, in itself, is something that is beyond our competence to comment on, but we do observe what goes on from time to time.

10:50 a.m.

Takeover fever resulted in a multiplicity of high-profile applications before the OSC, which were well reported in the media. I take you back now to my little analogy that with the securities law they are in a box. The box was created by the Legislative Assembly, not by the OSC. Part of that box in takeover fever says if you pay a premium of over 15 per cent to private individuals, or to institutions but small numbers of people, you must make a follow-up offer. That is one of the things the Legislature imposed upon the capital markets of the province.

You go back to that box. People said, “Yes, that is right, we are caught in the box.” But the Legislative Assembly said, “You can ask the commission to exercise its discretion to excuse you from the box.” You have only to realize, if it is your pocket that is involved and you are looking at a follow-up offer of many millions of dollars, that it has to be worth it to go and see if you can convince those wise men sitting up there that you should be exempted from that requirement. Because of the numbers of zeros that follow the whole numbers it got well reported in the press.

It does not take long before Nader-like people realize that maybe we should be applying to the OSC on behalf of interest groups, minority shareholders or others, to force follow-up offers—a kind of consumerism-type litigation, if you will. The reason the matters did come before the OSC, in addition to the fact that it is under our statute, is that you can get relatively quick decisions from the OSC. We would sit late at night to make them.

The reason we do that is not to accommodate any particular interest group, it is because generally the markets are closed—for instance,

Dome Petroleum was closed yesterday—and it is our perception that to close the capital markets is to do a disservice to the investing public of the province and to the foreigners who invest through our markets as well. It does not say so in the statute, but we feel we have a duty to get those markets opened as expeditiously as possible so that men and women may trade freely; so you have the hearings.

For every hearing there is a loser. Not in the sense of a sporting event, but if someone who was applying for something did not get it, or if the application was granted, someone else did or did not get something they were hoping to get. That creates a certain amount of friction. It also creates a certain amount of friction, when you are trying to do “business deals,” to find that you are up in front of a bunch of regulators who have not been spending the last four or five weeks sweating it out in shops late at night trying to come up with a deal type of thing. There they are, sitting cool and calm, judging you with hindsight. That creates friction.

Regulation per se creates friction; they go hand in glove. The concept is not to let it get out of proportion. That brings me to the amount of media presence of the OSC that perhaps was not there three or four years ago. I say it had nothing to do with the OSC per se. It had to do with the new statute that the Legislative Assembly passed. It had to do with the identity, in some cases, of the players in the game. It had to do with the number of zeros behind the transaction, or the size of the game that was being played.

The present minister came on board during that whole scenario in the late spring or very early summer of 1981. I believe—from hearsay, because they did not speak to me; from what I have been told—that the minister received communications that the OSC was acting in an interventionist fashion, was playing in all of the games when it was supposed to be a referee in most of the games, that it was holding too many hearings. There is a litany of complaints about this, some of which you have listed here; and if you had time, I could add more until you got bored with them.

The minister, in my perception, has an obligation and a duty to those people who elected him, and to the whole province because he is a minister of the crown, to pursue those complaints back to their source and determine their validity. To the extent that they are valid, I believe he has an obligation either to force us to clean up our act, or to come to the legislators and say, “We overdid something in the statute,

we should amend it; we should amend the regulations because of this, that and the other thing.” That is his duty. It is not mine, and I would not want to get involved in it for anything.

You mentioned the position that led to the article in the Financial Times. I had, as you know, come from the private sector where I had been a lawyer, practising in Toronto in the core area for about 20 years. My background and training made me what I am now. I do not like not to do a job well. I accept a great many things and I accept in my present position that the law of Ontario is as stated in the statute as it exists today, not as you may amend it in the next months or years ahead.

The economic fever in the province led to a position for the OSC commissioners and staff substantially as described in the article you referred to. I have forgotten the date of it but it is the first article that you referred to.

Mr. Bradley: July 27.

Mr. Knowles: Yes. During this process the minister was coming to grips with his ministerial responsibilities in the new ministry of which he had assumed direction. We were feeding him, as I assume all the other agencies under his jurisdiction were doing, with requests, complaints and demands, et cetera.

The position at the OSC at that time was, and to a large extent still continues to be, that we are going to fumble the ball because we do not have the money or personnel. I am saying that to you as the chairman of a single agency. I do not know how many agencies respond to the Legislature as a whole, but I believe there are some 50 or more which respond to the Minister of Consumer and Commercial Relations. I assume that each one of them has demands, that each one of them cries wolf from time to time and that each one would like to have a Cadillac operation, because that is the way we are all basically built.

I do not know, but I believe it to be true, that the minister's job is to act in this regard as a mini-legislator and to try to balance things on a cost-benefit basis. I do not have the background or the information to know what benefits he is trying to achieve within his ministry at what cost. Those are questions you will have to ask him. For all I know, he may recommend to you the repeal of the securities laws on a cost-benefit basis, because in the terms of the whole thing from the ministry that is the thing that should go in a period of restraint.

It is no secret in this province or in this country that if we are not we should be in a

period of restraint, both publicly and privately. The determination of the economic resources of his ministry to be allocated to any particular agency is his decision, not mine. It is his problem, not mine. And I might say it is his burden, not mine.

I am telling you these things, because this is what the newspaper articles come to. I am trying to tell you why there is not a conflict. Certainly I am going to be noisy and vocal until you amend the laws, but I am trying to give you the format to fit it into.

I assume that as a minister of the crown he has to go back and sell his ministry among all the other ministries competing one with the other for the dollars. I believe that ultimately, and I hope we reach it soon, there is a finite number of dollars that you can take from the private sector into the public sector. If there is a finite number of dollars, then there is a finite number of benefits that can be conferred upon the public.

11 a.m.

I do not know where securities regulation fits in there. Obviously, from my background, I would say it is very important. I could give you all the economic drill: if you do not have capital markets then you are going to kill the goose that lays the golden egg. I will not bore you with that, but having said that much, you know the arguments I would marshal on that side of the fence. I am well aware that you could marshal as many arguments as you want on the other side of the fence.

The minister, from my perception, has to be made aware by me of the problems I have. He has to make the decision on them, not me; and I say "he," because I assume then he has to take it back to cabinet ranks and government and ultimately to the Legislature and all those things. But from my frame of reference—and it is only my frame of reference, not the minister's—we are attached to his ministry for quarters and rations and he decides our quarters and he decides our rations. I think that goes back into antiquity. I have learned many things since I have been at the OSC and I have relearned the power of the purse, and it is certainly an extremely good power.

As chairman I advise the minister on the scope of the services we are supposed to provide. I hasten to add, because people keep talking about securities, we do have things like commodity futures, and we do have the mutual funds or the investment companies or whatever you like to call them, all under our mandate as well. So it is not just securities markets we are talking about.

The minister received an initial budget from the OSC, then a revised budget from the OSC, and then a revised, revised budget from the OSC. There are lots of alternatives available, but the minister has to judge and advise us what alternatives are viable alternatives, because we do not have that background to know. If you only have X million dollars, no matter that you should spend X million plus, you cannot do it if you do not have it. That comes right down to each of our own personal budgets, it operates in the same way.

I would like to leave the OSC well staffed, with people in the second-line positions being trained to take over the jobs of the people who are their then superiors in the job line of command. That may be far too much a Cadillac operation for this province. I do not make that decision. I tell the minister that is what I would like to do. What he does with it is then up to him.

Because I come from this province, I would like to see the Ontario Securities Commission remain the lead securities commission in terms of initiatives and direction. That is not a downplay of the other securities commissions; they do lots of innovative things and we jump on to lots of the innovations they create, but the Ontario commission at the moment has a very high interprovincial profile and often does things.

Just because I am from this province I would be reluctant to see it go to another province. I hope to go back and make my living in the province and I would like to think that the capital markets will stay in this province with good securities regulations. Those are things that, as legislators, you are going to have to determine, not just the minister, because those are questions that ultimately find their way up to the Legislative Assembly.

Mr. Bradley: Under the present circumstances the minister does as he pleases; the Legislative Assembly does not have the power to change anything on the other side, as we saw last night, but I will not ask you to comment on that.

Mr. Knowles: That is an arena in which I am not a participant, for sure, nor an umpire.

In coming up with the fiscal operation, if I may call it that, of the OSC, we keep advising the minister of our requirements and he keeps trying to bring it into balance, I assume, with his overall demands and the budgets he has; and I assume that he has the same process then in competition with other ministers.

One of the things we hope to explore with the minister in due course is whether we can move to self-funding.

Mr. Bradley: That was the next question I was going to get to. I will let you get on with that because one of the possible solutions that has been advanced is self-funding, and that alleviates the minister's concerns to a certain extent.

Mr. Knowles: As I say, this is at the very early exploration stage with the minister. We have advised him. It is not as if the only time we talk to each other is through the newspaper. We do communicate and occasionally—we have not had the bottle of whisky they mentioned but we have had a glass of wine together.

Mr. Bradley: I am sure it was a high quality.

Mr. Knowles: It was Ontario wine.

Hon. Mr. Walker: It was London wine.

Mr. Knowles: We could not afford to have anything but domestic wine. I did not mean that monetarily, I meant otherwise.

The concept of self-funding is an intriguing concept and I would say we have done no more at this point than opened up exploratory discussions with the minister. Bear in mind we are competing with all those other agencies, not only for his dollars but for his time to listen to us.

I suppose the next step we propose to take, because we are pushy and we would like to get on with our job, is to do some kind of survey so we can make a concrete proposal to the minister which he can then consider. It may be the correct, small "p" political thing to do to have us self-funding, but then it may be that the Legislative Assembly would not like to have us self-funding from a reporting or responsibility aspect. Those are decisions that ultimately go into the arena represented by this building as opposed to the one represented by the commission offices.

If we can move to self-funding we obviously would want to do it on a user-pay basis as near as possible. I believe that would be an equitable thing. Very few people can really object to cigarette tax or to amusement tax if they use the theatres, or to gasoline tax. Very few people could legitimately object to paying a tax on security transactions through exchanges, to paying a tax that represented somewhat a cost recovery of the services of the OSC they use. At the present time—

Mr. Bradley: In which other jurisdictions is that the case?

Mr. Knowles: None that I am aware of. The dollars of which we speak are, from my frame of reference, insignificant. I realize from my own individual frame of reference they would be very significant dollars, but from my back-

ground and training we are talking about insignificant amounts of money.

I have had informal discussions with individuals whom I would prefer not to name because the talks have been informal. These are people in the private sector with whom over the course of my business life I have come into contact. If I asked, "What do you think of the concept?" they have said, "That sounds like a fair concept." To them the dollars are insignificant.

Take, for example, the most difficult area of self-funding: you are asked, "Are you not in part a police force?" Now I said earlier that we are not and I believe that, but we do have an enforcement arm; I prefer not to call it police but maybe that is quibbling. Are not enforcement arms generally paid from the general revenues of a jurisdiction because it benefits all? The answer is obviously yes, they are. In this case the enforcement arm enforces for the benefit of all users of only one thing, the capital markets.

The whole province benefits from it, but if you buy stock on a stock exchange or over a counter that is looked at by the Investment Dealers Association of Canada, why should you not pay 10 cents a trade or 50 cents a trade to support the police force that ensures the integrity and that will go out to enforce the securities laws for you if there should be something wrong with them?

I find it easy to say I will do that, and I think I do so because I really do not object to user-pay taxes. Now I wish my minister could drop them a little bit on wine and beer, but I guess he has other concerns on that area.

That line of communication between us and the minister is open. It is something on which we have not given the minister a sufficiently documented brief or presentation or application or whatever, where he could respond and say, "Yes, let us move to that," or, "I will get the authority to move it," or whatever is required. I certainly hope, from my frame of reference as chairman of the OSC, to put him in position to, say, hold a public hearing so he can move to making a legislative decision on the matter. I would like to have him in the position to be able to make a legislative decision on the matter before the end of January 1982, because it takes time to gear up for these things.

11:10 a.m.

What we may say to him is, "No, we do not think you can," and he may say, "Then go and hold a hearing." Or we may say, "You can do it, we believe it," and he may say, "I would like you

to test that in public rather than just in your memorandum." Those things will come out and I hope, as I said, they will do so before the end of January 1982 in terms of us giving the information to the minister.

I will move now, if I may, to the complaint side which leads into the article or the interview with the minister in the *Globe and Mail*. As I said to you, my understanding when the minister came on board as the minister of this ministry, either prior to, at the time of, or shortly after, he started to hear complaints about the conduct of the OSC and the functioning of the OSC and of the commission. I use "OSC" to be the whole thing and "the commission" to represent the nine people who are commissioners.

As I told you, I believe he had a duty to pursue those complaints to their ultimate resolve. So there are no bad feelings in any of the commissioners of the OSC or in any of the staff of the OSC. We all think he was doing his job.

I do not say I like to be second guessed and I would be lying to you if I were to do so. No one I have ever met likes to be second guessed. No one likes to think they have done a sufficiently bad job that they have to be called out to have their past performance scrutinized. They would like to think that their past performance and their record stood as a credit to them, not as something that required an investigation. I would be silly to say I am the exception to the rule, that I like to be hauled out and put under a microscope. One of my commissioners does; I do not. I assume that legislators do not either. I still do belong to the human race.

So when the minister was confronted with whatever the complaints were that he received, he made us aware of them and, through his deputy minister and through communications from himself, he made us aware that he was looking into complaints about the OSC and its performance, and into the securities laws of the province as a whole. We said fine.

As a result of his preliminary look into them he said, "Yes, there seems to be some discontent in the marketplace, if you will, about securities laws generally, about the performance of the OSC." And they are the ones that you mentioned, too many hearings, being interventionist, or being a player as opposed to being aloof and so on.

As the time progressed—and I do not want to lose my time because there has been too much going on—we got to the point where we had a couple of meetings with the minister and the

deputy and those commissioners who were available. We said, "Yes, if those things are true, we are interfering with the capital markets and so on, those are serious complaints. We would like to go out and test what is going on." The minister encouraged us to do so, if I can backtrack for just a second. He said: "By all means. You have your sources in the public markets, I have mine, people I rely on and trust in advising me as to what the vibrations of the world are. By all means go out and test what you think are the reactions of the capital market participants."

As a result of the encouragement from the minister, the commissioners arranged—no staff people were involved at all, because some of the complaints were related to the behaviour of the staff at the OSC. They also related to the commissioners but someone had to sit in on these meetings so we decided the commissioners would sit in on them. The commissioners arranged to have a series of meetings with the organized participants in the capital markets. I use that phrase because obviously the one participant in the capital market we could not meet with is the investor, because the investor is not organized and we do not have Ralph Nader in this country so we could not meet with the investor.

In this type of thing there is always the problem of the sample and of the selection of the sample, and all I can tell you is I called the people I know who I thought would respond to me. We had meetings with senior partners from a dozen or so of the major Toronto law firms, if I may call them that—major in the business they do and the size of the firm. There may well be some major firms that are small in size and have some important clients, but we did not call those. We went for the biggies, if you will, and they sent their senior partners. We included in that meeting representatives of the Ontario bar, because this is an Ontario matter, not a national matter.

That was the first type of meeting. These meetings all took place in a two- or three-day span because we wanted, as much as possible, to get their reactions rather than have a great dialogue on the thing.

We had meetings with representatives of the major national chartered accountancy firms, the Canadian Institute of Chartered Accountants, the Ontario Council of Chartered Accountants and included in that were members of the Financial Disclosure Advisory Board, a crea-

ture created by the statute and the regulations to advise on accounting and related disclosure matters.

We had meetings with the chief executive officers, or their representatives, of approximately 10 or so of the national dealer firms, as opposed to the small, local dealer firms. We had meetings with the executive of the Chartered Financial Analysts, representing another participant in the capital market, the people who translate disclosure documents into comprehensible recommendations.

We had meetings with the executive members of some of the self-regulatory organizations, the Toronto Stock Exchange, the Investment Dealers Association of Canada, the Ontario council of the Investment Dealers Association. We had attempted to include representatives of the Financial Executives Institute, in that they represent another recognized participant in the capital markets, but they were unable, on the short notice available, to attend the meeting. We had asked them to come to the same meeting as the Chartered Financial Analysts.

At those meetings we attempted to be objective. We were the subject matter of the inquiry so it was very hard to be objective, but we attempted to be objective. We attempted to lay out the concerns—basically one, that the OSC or the securities laws or both, or the staff of the OSC, or all the foregoing, were somehow not performing a proper role in the capital markets of this province, or were actually acting as a detriment to the proper functioning of the capital markets of the province.

I realize that the discussions, from my frame of reference, could be taken with a very cynical point of view: "What are they going to say to you anyway, because you are the chairman of the OSC?" But my personal experience has been that all of those participants have never been reluctant to criticize me, to my face or otherwise, either when I was in practice or since I have been at the OSC.

I believe that we had a free-flowing discussion. We received lots of areas of complaint. There were areas of complaint about staff functioning, there were areas of complaint about the commissioners functioning, there were areas of complaint about the numbers of hearings. You had the whole gambit of things that you would expect, because regulation is an irritant, and it is a gross irritant. Regulation is something that we really think should be imposed on the other fellow, but never upon ourselves. It boils down to the plaintive cry that has been

heard for centuries: "Trust me. Do not hassle me, just trust me." And, of course, regulation says, "We do not trust you, whoever you are."

We received some very good comments that we, as commissioners, believe substantiated some of the complaints the minister had heard that started this whole dog running, if you will. We have advised the minister of that and we have told him we are acting upon it immediately.

We believe it is part of the process that if things go long toothed they get some red tape and they get some bureaucracy and they get some practices that are there just because they are there. In the few short years in the life of this statute there were such things and we are acting to correct them, asking people to relook at what they are doing, rethink what they are doing, remember that the role is to act as a lubricant as well as, say, an overall overseer, a non-self-interest group supervising the capital markets.

Mr. Bradley: But you have sufficient independence of mind, sufficient independence through the legislation, that you did not feel intimidated by the suggestions made by the people you met with?

11:20 a.m.

Mr. Knowles: Not at all.

Mr. Bradley: Instead you viewed it, as an objective group, as objectively as you could and rather than be defensive you decided to act upon those areas where you felt there was valid criticism?

Mr. Knowles: Absolutely. I think when you speak with the minister in a dialogue you will find that we did not hesitate at all to tell him of all the complaints and some of the nice things that people said too.

It is the age-old problem: how do you teach your children to say thank you when they receive a compliment? So we taught ourselves that and if someone said something nice about us, we told the minister that someone had said something nice about us. Not everyone hates us; I would not want to give that impression. There are people who think we perform a useful function and that we do it relatively well, given human frailties. We make our mistakes.

Mr. Bradley: Given human frailty and a larger budget.

Mr. Knowles: That is truly a legislative process. I am sorry to go on at such length, but I do not think that the subject matter can be understood unless you see all of the little ripples that flow out from it. I also feel I have to give

you a full answer on the matter, because simply to say there is no conflict between the minister and myself, on the surface is not credible.

If I give you the background of understanding or, as the young people say, from where I come or whatever, perhaps you can see I really mean there is no conflict. That does not mean that we do not disagree on a great many things. I would anticipate that we will disagree on a great many things for as long as we are associated one with the other.

Mr. Bradley: I have that in common with you then.

Mr. Knowles: Maybe it goes with the minister's turf.

Hon. Mr. Walker: I thought you agreed with everything I did. It used to be so much nicer back in corrections.

Mr. Knowles: As a result of that process of these meetings, going to your last comment upon that, not only will we be prepared to act on it, we think that the concept of holding these meetings on a regular basis can only improve the efficiency of the operation of the OSC and of the capital markets. I think if it got into a straitjacket that you were going to meet in December of each year or something like that, it would lose its utilitarian aspect.

I believe that the meetings should take place not more frequently than once a year and not less frequently than once every two years, depending on the activity in the capital marketplace. If the capital markets have been relatively quiet, it is senseless to call these people, who are relatively highly paid and have tremendous responsibilities, to be where they are supposed to be rather than to call them up just to have a social chat on the thing.

I think that the cumulative weight of small things over two years would mandate that you meet with them at least every two years, as I said. I say that because no matter how good a will you have or how absolutely honest you are in your integrity and your objectives, as you are isolated you lose perception. As you lose perception and perspective, you start to enforce things because you are enforcing things.

I think the classic example is the prospectus document that is used in the capital markets today, which had its current birth in 1933 in the United States. It is, in my personal view, an almost totally useless document. I think I could comply with the laws of Ontario with full disclosure so you would have no idea of what I said in my disclosure document, but it would comply to the letter with the laws of Ontario.

I think the decade ahead is going to be unfortunate for the legislators in the capital markets area in that the securities body of this province, if it is properly functioning, will be coming at you on a regular basis for changes in laws and changes in regulations to bring the regulation of the capital markets into a proper mode for dealing with the next 30 or 40 years of the economic development of this country.

The great leap was seen by Brandeis and others in the United States and that led to the 1933 and 1934 acts. We need a new Brandeis, a new thinker, an innovator, in the next two or three years, to come up with some concepts to bring before the Legislative Assembly that will see us in a healthy mode through the next 25 to 30 years.

This gets into philosophy and the minister and I may well disagree on the philosophy of it, but the old tried and true principle of disclosure has a place, and will still have a place in the years to come, but I also think we need something to take priority over it. I have no idea what the something is, but disclosure is no longer, in my personal view, adequate.

By saying that I do not mean to say you should give us the tools to go out and slash through the capital markets and ride around on white chargers; by all means not. Until we can come to you, through the minister, with concrete suggestions, I think we are stuck with disclosure; I think that is the right verb. We are stuck with it, not because it is the good thing but because no one has thought of the next proper step to take.

I think, sir, I have tried to answer all of the questions that you have raised in there from my frame of reference.

Mr. Bradley: You have done so very thoroughly, Mr. Knowles, and I appreciate your answers and the background information that you have provided to those of us, particularly, who have a limited knowledge of that field. I think it has been not only valuable information in terms of the questions I have asked, but you have provided a good education for some of us on the committee as well. We appreciate that.

Second, I commend you on taking the initiative to meet with those who are directly affected by the rulings and workings of the Ontario Securities Commission. I can only agree with that. I think sometimes legislators are in a similar position of living in a cocoon, either here in Toronto or in Ottawa, and not recognizing, after a number of years, the ramifications of the legislation that we pass, or the enforcement of such legislation. Through meetings of the kind you have described I think benefits will flow.

For a few minutes I shall then explore, if I can, some of the minister's points of view on this. I shall not take too long with the minister, because I do have some specific questions to the commission in regard to its performance. Then I shall be a little more critical, perhaps, of its performance during that Re-Mor/Astra affair and also during Co-operative Health Services and Argosy. I have some very specific questions there that I should like to explore.

Mr. Chairman, through you, I would give Mr. Walker a little bit of latitude and ask him to comment on some of the things that Mr. Knowles has had to say.

I am particularly interested in your philosophy, Mr. Minister, as it relates to disclosure as opposed to regulation. I recognize there is a grey area in between, but the impression I gained through the news media, and through my perception of your general philosophy on government, is that you probably would opt more for disclosure than regulation. You can correct me on that if I am wrong.

I should also be interested in knowing whether you feel that indeed the mandate of the OSC should be reduced and therefore the budget held in line, or perhaps even reduced. I should like to know what your views are on user fees, as they relate to the Ontario Securities Commission.

I shall leave those specific ones, and you may want to comment on some of the other things that Mr. Knowles had to say, Mr. Minister.

Hon. Mr. Walker: Let me say that I think I can identify myself with the views that have been expressed by Mr. Knowles, who has attempted to interpret, I think very fairly, his position and my position. I would re-emphasize the view that while we have differences of opinion in some areas, that is not to say a conflict exists. That certainly is our situation: we have varying views, but then again I do not think there are any two people who do not have some discrepancy of views.

I think we have approached it in a very mature way, in that we have been exploring—I think I initially went to the commission with some 11 observations and after some consideration by the commission we met again for a fairly lengthy discussion and chewed over each one of these, and found ourselves basically in agreement in many areas, as with the vast majority of the points I had raised. In addition to that, in response to some of the points that I had raised, and really I am reflecting the community when I express some of these concerns.

11:30 a.m.

When we discussed some of the remaining concerns, they offered opinions that brought different aspects and perspectives to my view, and basically we are considering those positions. We basically have the same goals and I am satisfied that the commission, the commissioners, and in particular the chairman, have identical goals.

For instance, we see the Ontario Securities Commission as the lead commission in Canada, without question. We see it continuing in that role, and it is our intent and interest in having that continue.

Both of us are loath to see any involvement of the federal government in the arena, and I know they have some draft legislation floating around securities and would love nothing better than to get in and have the securities market to their own. I am sure the problem with the federal government would be that they would make their decisions based on regional economic expansion. We are liable to have the Toronto Stock Exchange located in Grand Bank, Newfoundland, or in Moncton—and I am not being disparaging in those comments.

All I am saying is that they may consider other centres of Canada to be the important area of capital accrual and that runs counter, certainly, to the view that Mr. Knowles, and indeed the entire commission and I, would have in this regard. We are very keen on making sure that Ontario remains as the lead commission, to the exclusion of the federal government, and in that regard my colleagues from across Canada share, almost to a person if not totally, those same views.

It is our goal to see the securities commission become the facilitator of the orderly transaction of business in Ontario to the extent that regulation is involved with the capital market. We intend, and both of us are totally agreed on that, that the commission's primary purpose is the orderly transaction of business. I do not think there is any question in that area.

Both of us are very strong proponents of the disclosure principle, and how much information should be disclosed; we share that. You have heard some observations from Mr. Knowles today as it relates to disclosure, and it is not that we would immediately abolish disclosure. I think Mr. Knowles' view is that something else would have to replace it, but that at the moment no one knows what that something else is.

It may not be perfect in the way it is, particularly as it relates to the prospectus and what it discloses. I see, in the next decade, even

in the next year, as we attack the act itself with amendments—remember, it is a brand new, comprehensive act that blazed a lot of trails in Canada—that in the next while we are going to have to do something with respect to the prospectuses to ensure that they provide to the users, to the investors, the disclosure that allows them to arrive at the kind of conclusions we anticipate disclosure would permit them to come to.

Those are areas on which I expect to hear recommendations from the securities commission along with, as we discussed the last day we were here, other areas, other recommendations, other proposed amendments. Indeed, you are aware of the draft amendments that were put out, first of all in December 1980 and were subsequently reissued in June. There will be perhaps some more discussion on that, and I think I shall be receiving recommendations from the commission on how we might proceed on amendments.

For introduction into the House I rather have targeted in my mind something in the May to June area of next year, probably allowing them to sit over the summer, with some intent to have in place by next fall some of the revisions to the act we think will be more in the public interest.

Those are some of the general directions—

Mr. Bradley: What about user fees?

Hon. Mr. Walker: I am in favour of that. That introduces an interesting question. We are rather an interesting ministry when it comes to user fees and I support the concept of user fees, generally speaking. I look at the point raised by Mr. Knowles and we are certainly giving some careful consideration to whether we could make it a user fee corporation. I did take a look at the statement of expenditures for the Ministry of Consumer and Commercial Relations and the statement of revenues, just to contrast one or two of them.

For example, in the regulation of horse racing we receive user fees to the tune of about \$1.2 million. This is based on 1981. And yet, our regulation of horse racing allows us to spend something like \$9.1 million. So there is quite a discrepancy there.

If we were to go to user fees there might be some of your horse racing fans from down in your own community who go to a track not very far away from you—

Mr. Bradley: They are closed down now in the riding of Brock; Fort Erie.

Hon. Mr. Walker: Yes, that is what I was referring to. They might be offering some concern if you were to attempt to impose user fees. You see, the self-funding concept is all right for those that are self-funded. It is all right for those that happen to be in the right range, but some fall without. Some do not have the capacity to raise their own fees.

We, as a ministry, will spend about \$94 million this year based on last year, and our total revenues are \$186 million. So we might have to turn back quite a bit if we apply the same principle, and I am sure the Treasurer (Mr. F. S. Miller) might offer some observations on allowing us to send another \$90 million back to the public. The liquor licence board makes up for most of that, of course, and Mr. Knowles has looked enviously at the fees that have been raised there.

Mr. Bradley: It is an interesting commentary on our society I guess, that the taxes on sin yield such great revenues.

Hon. Mr. Walker: A lot of people would look upon that as the proper place to raise money—indeed, they would consider it a sin to raise money in the first place. Looking at one or two of the others, the theatres, lotteries and athletics commissioners earn about \$740,000 and spend about \$729,000, so they are roughly in tune. In the case of the securities commission, the revenues last year in 1980-81 were roughly \$1.4 million and the expenditure was about \$3 million. So there is quite a discrepancy there.

I agree with the revisions that Mr. Knowles has submitted to us on behalf of the commission. I am not prepared to discuss what the revised fees are because I have yet to take those through the process we have, which is through the Treasurer and through the management board. But I have found the proposal for revised fees quite acceptable as submitted, and have spent a fair amount of time vetting those fees over the last few months through various organizations to see about acceptability and whether we are on the right track. We have a common accord there, and that matter is in the mill for ultimate revision.

You know, of course, that the Treasurer guards very jealously the concept of the consolidated revenue fund, that every single fee the government raises, every single penny, goes into the consolidated revenue fund and none of it has strings attached. He has many good arguments and many good reasons for saying that.

I suppose in our ministry, particularly when it

comes to liquor, and in other ministries as well, he is absolutely steadfast on the concept that you will not attach anything to the fees; they go into consolidated revenue. That is where they stand.

Budget is a totally different consideration. He would argue very strongly—and maybe that has application in this ministry in any or all of our agencies—that if they were fee oriented and their livelihood depended on fees, they might then be responsible to the fees a little more than they are responsible to the justice they are attempting to mete out. I do not say that that would be the case. I am sure it would not be in the securities commission, but never the less, that is a consideration.

11:40 a.m.

There is the old argument about the policeman who has a quota of tickets; that, of course, is not the case, but we have often heard the argument that cops are doing that kind of thing. That is not the case, but in some cases that has been the public perception. I know the Treasurer would be very concerned about that aspect and I know, generally speaking, the Attorney General (Mr. McMurtry) would have a comment to make there as well about attaching the fees directly to the operation.

It might suggest to you that if it were applied in the courts they would tend to levy their fines as required. If the judges were looking for a raise this year they would just put a few more people through and maybe indeed bump the fines a little bit to cover the raise they had in mind.

I am playing with a ludicrous situation I realize, but that is a counterargument to the concept of having direct user fees. It might have application in some areas—indeed, it could be in the securities commission; it would work well. On the other hand, it has its drawbacks perhaps in that field and certainly in other aspects of our own ministry and certainly in other aspects of other ministries.

Mr. Bradley: Mr. Knowles indicated that they had to run back the budget twice. It is a twice revised budget—

Hon. Mr. Walker: I cannot understand why it was only twice. We make all our other managers in the line bring back their budgets more than twice. We worked it over.

Mr. Bradley: Their first one must have been very reasonable then and also their second. That must mean then that where he said people are becoming fatigued and frustrated and a

disaster is inevitable—I am quoting out of context naturally, as this article is—but taking the quotes I gave originally, it must mean that you are prepared to accept that the Ontario Securities Commission is not going to be able to carry out its function as well as it had hoped to do because you are holding back on its budget.

The only alternative to that would be—I guess there are three alternatives—to accept the fact that you are not going to give them enough money to do the kind of job they want to do and hope nothing bad happens, that these people do not collapse from heart attacks and so on from overwork; second, you cut back on their mandate so they do not have to have those kind of funds to do what they are supposed to do; or, third, you give them the amount of money they would need to carry out their functions in a corporate fashion.

Hon. Mr. Walker: Those may not be the only alternatives available. One aspect to be kept in mind here is that Mr. Knowles is not kidding you about the work load. We know the work load is there. Indeed, at this very moment there is some move to adjust the space requirements in the building they are in. One operation will be moved out of that building to make additional space available, which is extremely important and something Mr. Knowles has been after for more than a month or two. So there are some adjustments being made.

In addition to that I might remind you that our ministry applied for far more money than was ultimately granted. You must realize as well that for the last eight months I have been working on the 1982-83 budget, as has the entire ministry, so we are going back a while to when the initial budgets were presented.

In the first go round, our ministry was looking for something in the range of \$104 million, which was what our managers determined to be our need. That was considered to be a fairly bare-bones budget; that is what our managers estimated. Now this is province-wide and this is ministry-wide.

We then settled with management board on a figure of \$98 million, which would be the figure they cut us back to when government made the allocation. I take responsibility for that allocation because I was part of the process of allocation, being on the policy and priorities board, and having a somewhat more direct role than perhaps some of the other ministers. What

the ministry ended up with was \$94 million. So we had a fairly dramatic constraint that applied ministry-wide.

Mr. Bradley: I know where you could get \$10.6 million.

Hon. Mr. Walker: I bet you do.

To get to \$94 million meant we had to go back and apply a constraint to every single facet of the ministry. We have basically extracted those funds out of our ministry and we will come in with a balanced budget, and perhaps somewhat less than a balanced budget. At least we will not be in a deficit.

The securities commission has been the one part of our ministry that has been given a waiver until we sort out in which way we are heading. We are now eight months into the year, so there is not much time to save, if we are to save. Every single ministry element—and there are probably 54 components—has had money extracted from it to meet our balancing. The one exception has been the securities commission, and that was on the strength of Mr. Knowles' argument.

Mr. Knowles will argue that there should be additional funds on top of that, and he may well have valid arguments. Those are certainly part of our considerations. At the moment we have not bounced any cheque he has written. Indeed, the cheques have been somewhat in excess of what the normal flow would be for, say, eight months. In eight months you might expect to spend X dollars. Up to this time, the commission has spent X-plus dollars, and as I said, we have not bounced any cheques.

Mr. Bradley: You would certainly have an eye on the consequences of doing so in the light of the financial disasters that have taken place in the last few years. You would want to ensure that the Ontario Securities Commission would be able adequately to carry out its mandate. There might even be some who suggest that some of the problems which have arisen have been as a result of lack of funding. Others would say that was not the case. I know you would be concerned about that in these financially difficult times.

Hon. Mr. Walker: That is exactly right. About the mandate question, Mr. Knowles is quite correct when he says to you that if the commission is to continue the mandate that appears to have been given to it by the Legislature, then there are certain ramifications that flow from that which they will not be able to meet under the current circumstances. It is that

mandate that we are discussing at this very moment. We are looking at the mandate. The question of hearings is for consideration.

I would opt for the view that the rules of the game should be well articulated so that every individual knows precisely what to expect. Some of these rules are now coming out in the decisions which are being made, but it is in everybody's interests, ultimately, to have a set of rules which apply to people dealing with the securities commission. We have to look at that aspect now.

Certainly I have been critical of the number of hearings, but only two or three hearings have been initiated directly by the commission itself. The rest have been at the request of various customers, so to speak; the applicants and/or the respondents who are appearing in the hearings process. They have asked for decisions to be made by the Ontario Securities Commission relating to some issue they have, either an interpretation of the act or regarding their behaviour. That is something which consumes literally hours of the time of the commission.

Part of all this is the takeover question and what has flowed from that. We had that rash of takeovers, and they have subsided somewhat but certainly not totally. There are still a number of matters flowing from that. There has been a real spate of questions to be answered by the commission. If rules can be designed that answer the questions which are being posed, that may circumvent the need to have a hearing.

11:50 a.m.

I do not think we would want to go through the court process because that just stalls the financial transaction until a court decision is made, and that may be a year or two down the line. The one value the commission has is what seems to be instant justices. They have been known to sit until 1 a.m. and to render a decision on a Saturday. They met last Saturday on some matters because there was a transaction which was to close on Monday or Tuesday and they had to have a decision by then. They have met that need very well and have given very fast answers in a number of tricky situations.

A year or so ago the commission probably met on Thursday afternoons, and occasionally had enough business to take them right through the dinner hour. I think it is fair to say that now it is not uncommon to have them sit until 1 a.m. on a Friday night. It is a busy operation; we have to recognize that. It is our mandate.

Mr. Knowles, the commission and I are in the process of debating and challenging each other

on various aspects and where we should be going. It does not flow from anything Mr. Knowles or I have done. It flows from the fact that a new act came into being. In March of this year the last piece of that act came into play and we are trying to work out as best we can the application of the new act, which has presented real growing pains for us.

There were a number of criticisms, which Mr. Knowles has set out carefully and extensively to you—I do not need to elaborate on those—how the process has been working. He has been encouraged to negotiate with the industry and has not only been ready to take up the cudgels, but he has done so quickly. Meetings have now been held with the entire organized industry.

That is working quite well. I only wish they would have one mind. The trouble is that from time to time they seem to have a divided opinion. If they were all of one view, one way or the other, it would make life a lot easier, but there is a certain amount of division often within each of the constituencies approached by the commission. That is the current status.

Mr. Bradley: I appreciate the comments from both the minister and Mr. Knowles. I would like to get into a more specific matter with Mr. Knowles. Probably Mr. Bray would have been the person to question on this, but I am sure Mr. Knowles would have knowledge of it.

Hon. Mr. Walker: Someone has to be back there running the shop.

Mr. Bradley: That is the matter of the Astra/Re-Mor affair and specific questions that arise from that.

Mr. Chairman: Mr. Bradley, Mr. Mitchell has been waiting very patiently for about half an hour to ask a supplementary question. Would you permit him to interject his question?

Mr. Bradley: Sure.

Mr. Mitchell: My question refers to a comment made by the minister a little while ago, which has me somewhat puzzled. That was the comment about the federal government and some of their proposals, and it gave me some concern. Perhaps you could elaborate on where this is coming from.

Does the federal government appear to be serious about it? This is a case where one has to put up a very strong fight. I know the ministers met in Quebec City. You mentioned, as well, that the provinces seemed to be united in their opposition to the federal position. Perhaps you could shed a bit of light on that.

Hon. Mr. Walker: The federal government would like nothing better than to get involved in the securities field, I am sure. They are an interventionist organization, generally, and it fits perfectly into their general scheme of things. Indeed, it may well fit into their overall scheme of where events should occur, what kind of capital accrual should occur and whether the market should be one place or another. Of course, they have all of Canada to consider.

My view, and that view is shared by almost everyone with whom I speak, is that we would not want the federal government to get into it. If there are differences in the acts of the various provinces, that leads to a vacuum-type situation which might, unfortunately, draw the federal government in.

We are fairly consistent at the moment with other provinces across the country, although there are some areas of discrepancy. The follow-up offer, for instance, is unique to Ontario at the moment, but it is possible that it might be picked up by Quebec. Other provinces do not have that aspect, and that is one thing we are going to have to look at. But there is an intention on the part of most of the ministers responsible for securities that there would ultimately be some kind of consistency across the country, and that would be extremely valuable.

Mr. Mitchell: No one argues against consistency. One of the bills I carried into the House for the ministry, the Business Corporations Act, is an attempt to merge Ontario legislation with the federal legislation and that of the other provinces. Certainly I would not want to see the federal government having the overall say. Are you suggesting that is the direction in which they want to go?

Hon. Mr. Walker: It has been indicated publicly that the federal government has some securities legislation, either fairly close to draft form or in actual draft form. They do not necessarily intend to bring it in next year, but there have been some rumblings about that. There is some intent on their part to become the federal regulator in this area. They would see it as a logical outcrop, I suppose.

Mr. Mitchell: It would strike me as a retrograde step.

Hon. Mr. Walker: Yes. I would support that observation.

Mr. Bradley: Moving back to the Astra/Re-Mor affair, I indicated it might be useful to have Mr. Bray here, although we have already had the

opportunity of questioning Mr. Bray before the committee. He knew how to handle questions from members of the committee in a way that served the interests of the Ontario Securities Commission, in the sense of avoiding appearing to be the bad guy in this matter. I guess that is a backhanded compliment to Mr. Bray, but I think he would prefer that to regarding it as a criticism.

Mr. Gordon: Most of your compliments are backhanded.

Mr. Bradley: There is that smart ass from Sudbury again.

Mr. Gordon: You walked right into it.

Mr. Bradley: I appreciate that the Ontario Securities Commission feels that some matters may be sub judice. Nevertheless, as the Ontario Securities Commission may or may not recall, we had this same justice committee investigate this matter last January, and although we did not get to the OSC's activities because of the timing of the election call, we did hear some testimony from Mr. Bray and Mr. Bigham. The sub judice rule was invoked very rarely, I must say, in that committee. Mainly it was invoked whenever questions were asked concerning where the money actually ended up. I think that was understandable at that time.

The questions I intend to ask are in the same vein of what was generally asked in the justice committee last January. I think Mr. Mitchell has a question.

Mr. Mitchell: No. I realize that the minister had indicated to the committee that he would be prepared to answer questions in regard to what you are talking about. However, I would be somewhat concerned—you have mentioned a sub judice situation yourself—that this committee would have to deal very carefully and phrase their words very carefully because of the criminal and civil actions now pending. At least, that is my opinion.

Mr. Bradley: I appreciate Mr. Mitchell's concern, but we will make that judgement when we come to it.

Just as some background, Mr. Chairman, it would be safe to say that the OSC began investigating the Astra problem around May 1978, C and M Financial Consultants around October 1978, and in December 1978, the Ontario Securities Commission made an application to the Supreme Court of Ontario to put C and M into receivership. The matter was disposed of in February 1979 when the court ordered Carlo Montemurro to wind down C and

M under the supervision of a receiver. Re-Mor Investment Corporation was granted a mortgage broker's licence by the Ontario government at almost precisely the same time.

In late April and early May of 1980, more than a year later, Astra, C and M and Re-Mor all collapsed.

12 noon

Hon. Mr. Walker: Have you got another printed copy of that, by any chance?

Mr. Bradley: No.

One matter which concerns me is that one year after the OSC began investigating Astra Trust—note that it is after—and still a year before Astra collapsed, the Ontario Securities Commission laid Securities Act charges against a number of Astra principals. These charges were laid in May 1979 but they were laid in secret; that is, they were not filed in court, they were not served on the accused. Indeed, after being sworn before a justice of the peace, one copy of the charges was taken back to the OSC offices and kept there.

I find it quite unusual that these charges were laid in secret and nothing was done with them. I guess I ask this question of either the minister or Mr. Knowles: why was this done?

Hon. Mr. Walker: Let me answer by, in a moment, asking Mr. Knowles to respond to the extent that he can. I want to remind you that there are some criminal charges and some civil litigation flowing directly from the very area you are now touching on, and I want Mr. Knowles to be careful that he does not jeopardize, in making a response, any of those cases.

If, for some reason, what he has to say here might lead to jeopardization of the criminal charges, I do not think that would be in the interests of justice. So I want Mr. Knowles to be very cautious in his reply. We have had some consultation on this very matter with the crown law officers and this is their observation.

There will come a point when he may not want to go further and I want you to respect that. I would ask that he stop his line of answering at that point. I would like him to tell you what he can about that and it may be that everything he says is sufficient for the answers you are looking for, and I hope that is the case, but there may come a point where he cannot go further.

Mr. Bradley: I am sure you will intervene if you feel that is the case.

Hon. Mr. Walker: I am hopeful that he will recognize that and stop before I have to intervene.

Mr. Knowles: I anticipated, as a result of Mr. Renwick's questions some time last week, the subject of Astra, Re-Mor and Argosy would be the subject matter of some comment during the proceedings of this committee and I did two things. Really I am just telling you where I am at; I can answer in part the question you pose.

I spoke with Mr. Rodney McLeod, of the crown law office, in connection with Argosy, and I spoke with Mr. Howie Morton, of the crown law office, in connection with Astra/Re-mor group, if you will.

Mr. Bradley: I well recall Mr. Morton's last lecture.

Mr. Knowles: The advice that was given by Mr. Morton was not dissimilar to the comment of your colleague across the way. The matter is now actually before the courts, both criminal and civil, and Mr. Morton asked me if I would convey to you that if you wish to question would you afford him the courtesy of coming up to ascertain on each specific question whether it has application to the things before the court. I have no idea whether it does nor not.

That is why I say I can answer in part your question in connection with the laying of Securities Act charges—not with reference to Astra/Re-Mor but why Securities Act charges are laid, the general format and how they are proceeded with in the normal course of events.

As to how that impacts on the Astra/Re-Mor group of companies, C and M and so on, all I can say is Mr. Morton has said his advice for the orderly administration of justice in the province is that nothing should be said unless the crown law officers say it has nothing to do with what is going on in the courts. I do not follow what goes on in the courts because it is not of interest to me.

Mr. Bradley: I appreciate what you are saying, but to inject a comment into it, this is exactly the roadblock we ran into last fall. There were some notable exceptions, but I thought for the most part the committee proceeded quite well in January in avoiding those problems.

I realize the circumstances are quite different. I do not want to use the hackneyed phrase "the realities of March 19," but I am going to use it. There were times where we were able to get answers for the committee which I think were useful. If we wait until all the court proceedings are out of the way, and we err on the side of conservatism in this regard, this committee will be investigating in 1987 what is going on.

I appreciate what you are saying, but I guess my question is rather specific as to why you did not lay charges at that specific time.

Hon. Mr. Walker: Jim, remember this, there are circumstances that are different today in that the charges have been laid, people have been bound over for trial, and they are very serious charges. It is anticipated that these matters will be on for trial in the not too distant future.

That is not even taking into account the civil proceeding. Ignoring for the moment the civil proceeding, there are serious criminal charges against a number of people and they are directly and materially related to the matters you are now raising.

Mr. Knowles can go so far, but you have to be careful that you do not jeopardize the case. That would not serve the ends of justice. So just with that caution.

Mr. Bradley: I will allow Mr. Knowles to answer as he sees fit.

Hon. Mr. Walker: I will ask Mr. Knowles to answer that question to the extent that he can.

Mr. Knowles: With the caution they have put on it of not speaking to Astra/Re-Mor in the laying of Securities Act charges, but more or less telling you the general format as I understand it, my director, Charles Salter, QC, is in the audience, and to the extent that my understanding of the process is inaccurate, whether by way of omission of something that should be said or by an inaccurate statement, I would ask him to come up and advise me on how to do that.

Again emphasizing I am not speaking of Astra/Re-Mor, the Securities Act charges must be laid within a year of the time the commission is aware of the offence taking place. If they are not laid within that time frame, then the charges are, in effect, barred by the statute of limitations from being laid.

The investigation of alleged security frauds, either from the Securities Act frame of reference or from the Criminal Code frame of reference, in large part takes a substantial chunk of time in that very few of the people who abuse the economic markets lay a clear path that leads to their door. In most of the investigations in which the staff of the OSC is involved, the time of one year set out in that statute—and we are not quarrelling with that time, I hasten to say, because citizens do have to have some limitation on it—generally speaking pushes the

staff to its ultimate limits to get what would be even a *prima facie* file together for the purpose of laying charges.

If the activities being investigated go beyond that of strict securities violations and involve potential criminal act violations, or violations of other more serious statutes, if I may use that phrase, than securities statutes, the practice has been, and continues to be under my chairmanship, that the Securities Act is treated as the junior statute—the junior charge, if I may use that phrase—and the statutes that rank—by our own ranking, not by any law—in priority to the Securities Act take precedence.

At this time, in the general concept of an ordinary investigation, assume you have the facts where your staff at the OSC is content that there is at least sufficient evidence that there should be a hearing on a Securities Act violation, but they have involved other governmental agencies—Attorney General, Metropolitan police force or whatever—and those other agencies have said there are enough facts and hints—most of these things are clouded in smoke, so that you are trying to find out whether there is a fire underneath it or not. But there is enough in there at least to raise their apprehensions if they would like to carry on their investigation. They are not bound, if you are speaking of Criminal Code charges, by the year's limitation.

12:10 p.m.

So the commission comes to this point, the staff comes down, they literally come down, to the hearing room, an informal hearing room where we sit around a table like this. They say to us that they have investigated the XY file, and they believe that there is a *prima facie* case that Securities Act charges should be laid. However, they say, the Metropolitan police force, the OPP, the RCMP, whoever is working with them—and sometimes it is all of them—believe that the investigation should carry on because there is a suspicion of more serious—again, it is very difficult to use the comparatives in this thing, but there may be grounds for more serious charges in the material they are investigating.

The commission then is faced with the fact that the staff receive notice on day one, and you either lay the charges by day 364 or you are out of time. You know that another agency is investigating and may be laying more serious charges. If you defer to that other agency, the OSC as an agency will be out of time, and you have a staff saying they think there are Securities Act violations.

The only method we have been able to come up with—and we would look at any alternatives that people could put to us—is to lay the Securities Act charges, but not proceed with them out of deference to the other investigatory agencies or other government arms that are looking at it. Why do you do that? You do that because the OSC staff has told the Ontario Securities Commission that they think the matter should be looked into and the commission has agreed with that. They cannot do it without the commission's agreement.

So you put the charge down, and where do you go from there? If the other investigatory agencies or arms of the government, federal or provincial, determine to proceed under what I have classified, and badly, as the statute that has priority in governing the conduct, the Securities Act charges just kind of peter out and disappear because they have never been proceeded with. We may go into formally withdrawing them, but I do not believe we do. I think they just go.

If, on the other hand, the sister investigatory agency determines seven months after the year end, two years after the year end, whenever, that they really do not think—if you are taking criminal law, because it is hard to talk without some kind of examples—that there is sufficient evidence to overcome the burdens of proof that are put upon the prosecutor in a criminal case, so they are going to unwind their investigation and put it down. They are not saying, as you know, that people are innocent or not innocent. They just say there is not enough evidence to warrant going on to trial.

At that point, because the OSC staff has caused the charges to be laid under the Securities Act, the commission can come back in as the junior of the government policing organizations, if you will, and proceed under the Ontario mandate in the Ontario Securities Act, to pursue through the hearing mechanism the facts that the staff, at this point two or three years ago, said gave *prima facie* proof or a *prima facie* case of a violation of the securities laws of the province.

So you would bring forward to the front burner these latent Securities Act charges that have been sitting back waiting for the senior agency or the senior statute to be proceeded with.

I feel I could tie that to your question for you, and if I am ordered to do so, I will. I have been told by the crown law officers that I should not if they are not here to advise the committee members what in their view is the impact upon

what I would think is an innocent question on cases for which they are responsible and my agency is not responsible.

Mr. Bradley: I can assure you from my experience previously with them that they will tell you not to answer anything because, as an opposition member who wanted to investigate, I have found them to be very unco-operative. It may be unfair to say unco-operative; unco-operative as far as I personally was concerned about not answering anything. I am sure if Mr. Morton were here you would get the old answer of nothing, because we had to play hardball with Mr. Morton to get anything in the committee last time. The only way we did was because we had a minority government situation.

However, I did appreciate that in some cases he expressed grave concerns about moving into areas. His advice was very useful in that regard. Mr. Knowles can comment if he wishes, or not, if he does not wish to, but I see only three reasons that could be advanced why these charges were not laid at that time.

Mr. MacQuarrie: When you say the charges were not laid, apparently charges were laid.

Mr. Bradley: They were, but they were laid in secret, so I appreciate what you are saying. They were laid in secret and nothing was really done with them at the time.

The only three possibilities I see existing, Mr. Chairman, are, one, the Ontario Securities Commission could suggest it was because there was an ongoing police investigation. That was one theory that people have advanced. Apparently it is news to both the Ontario Securities Commission and the police that there was an ongoing police investigation at that specific time.

Mr. Knowles: I am sorry, Mr. Chairman, I apologize. I was speaking to the minister and I missed the comment there.

Mr. Bradley: Okay, I will just go over this very briefly. I see only three possibilities that people could advance as reasons for laying these charges and then keeping them secret. One would be that there is an ongoing police investigation, and to my knowledge, at that specific time, that would be news to both the Ontario Securities and the police,

Second, I guess one might advance the argument that one would not want to alert Montemurro and his associates as to what was going on. If you had already brought a receivership application against C and M and you were constantly meeting with Montemurro over Astra,

surely you would not expect that Montemurro was unaware of your interest in him. I think that excludes that possibility.

The third possibility would be that you would not want to alarm the investing public and cause a run on Astra deposits. According to business practices division director Robert Simpson, whose division includes the registrar of mortgage brokers who had licensed Re-Mor, Mr. Simpson, when he first found out about these charges in 1980, said he could not figure out how his staff had missed it. Then he found out the OSC had kept the charges secret.

Mr. Simpson said that if the May 1979 charges against Montemurro and others had been filed and announced, it would have put the cap on Re-Mor's brokerage registration. Had that action taken place, it would have saved a lot of people a lot of grief, in particular those who invested after that date. And in Re-Mor investments alone, more than \$3 million was collected after the time the OSC laid these charges.

Mr. Chairman: Mr. Bradley, as the Speaker in the House is often wont to say, would you please get to the question? There is no question yet.

Mr. Bradley: These are estimates, Mr. Chairman and members of this committee have the right to make comments, not just ask questions.

Mr. Chairman: Then should we have the minister here at all if you are going to simply give a speech for 24 hours? Yes, Mr. Swart?

Mr. Swart: Mr. Chairman, I would say that in something like this you have to give some explanatory remarks leading up to it. I have a supplementary I want to get in on this at some point rather soon. But I think particularly for the new members of the committee and to put any question in context, this kind of background is extremely necessary.

Mr. Chairman: But, Mr. Swart, we have time constraints. There is a motion to try to stay to an agenda and when Mr. Bradley turned over the next page reading and there was no question in his voice, that is when I have to ask can we please have some form of question. I agree with your comments as to background, but there must be some form of question, otherwise the minister might as well take off while you just complete your speech.

12:20 p.m.

Mr. Gordon: Have you given it to the press yet?

Mr. Bradley: You have never taken this seriously at all, Mr. Gordon, you never have. It

is a matter of grave importance to many people; not just in my area, right across Ontario. We get the same flippant stuff out of you all the time.

Will Mr. Knowles comment if he can, or the minister, if he can?

Hon. Mr. Walker: Let me make a point here. One of the concerns we had was that there was not a perfect transmission of messages, as I gather, from one division of our ministry to another division of our ministry.

Mr. Swart: An understatement.

Hon. Mr. Walker: We are anxious to correct that and we think we have corrected it in the form of the joint meetings that occur on a fairly routine basis. Even on some inconsequential matters there is a fair amount of meeting.

I hope to get us to the point some day where all of the investigation teams of our ministry are located almost on the same floor so they trip over each other every time they wander around; so that the financial institutions, the business practices division, maybe even the liquor licence inspection investigation aspect—because there are some aspects of that that involve a lot of police forces in this country, even Interpol is involved in a good number of these matters—along with the investigatory aspect of the securities commission will all be intermeshed.

I feel that is one of the positive things to have come out of this entire matter, that we will have this kind of cross-pollination, this transmission of information back and forth. This sort of fits into the whole concept of the computer ultimately being available.

While it is under the lead of Mr. Simpson that computer will be available and, as I mentioned in the opening statement, he has a blank cheque to get that computer on stream as fast as physically possible, so it will be there for the securities commission to push buttons and ask questions about what might flow out of the companies division of our ministry, which is totally unrelated as far as the vertical integration of the various aspects of the ministry is concerned.

But here is an area where we want horizontal involvement and that is where I think we are going to have a lot of positive things come out of all this. I am very optimistic that while we can never prevent fraud—there are criminally intent people—that while we can never prevent lies and things of that sort, we nevertheless will be able to capture, as much as possible, any kind of situation that might lead to an unfortunate loss.

Mr. Bradley: Our valid criticism would be that should have been in place some time ago and it is unfortunate that we had to go through these particular incidents to have that available.

Hon. Mr. Walker: Sure, to admit that we are doing it now, in fact having it happen now, is to admit that it is something that would have been much better in place ages ago. But it is in the nature of the operation that today it is in place and that is the important move. I see a lot of positive things that will come out of that.

Mr. Swart: Just on a supplementary on that: do we understand now, even before this new procedure is in place, and I am not sure of the exact degree of it being in place, that at least if any charges are laid, even if they are laid in secret, that—

Hon. Mr. Walker: Do not get too hung up on this word secret.

Mr. Swart: Mr. Chairman, let me rephrase it then, that charges are laid and not proceeded with.

Hon. Mr. Walker: Secret is too strong a word now. It is like a writ being issued. It is there if you want to check it, but generally speaking—

Mr. Swart: Mr. Chairman, perhaps I can go on with my question. I will rephrase it. If the minister does not like the word secret I withdraw it.

When charges are laid and perhaps even when charges are being considered, will that information be automatically provided to the registrars and so on? Was that not the case before—that even if charges were laid, it was not automatically provided?

Hon. Mr. Walker: I want Mr. Simpson to answer that question, because he is taking the lead on that. I wonder, Mr. Simpson, if you could come forward.

Mr. Swart: I am asking specifically, on the charges laid by the securities commission—

Hon. Mr. Walker: You are asking me, and I am directing Mr. Simpson for the moment to answer, and then I will also direct Mr. Knowles to—

Mr. Swart: Yes, perhaps you could ask the securities commission. Is that information automatically provided to the registrars and the other people in the ministry who would have some reason to want to know that? Is it automatically provided?

Hon. Mr. Walker: My answer to your question to me is to have Mr. Simpson for the moment answer that aspect. Mr. Knowles may

want to pick up on that and I shall ask him if he would plug in as well. Mr. Simpson is executive director, business practices division.

Mr. Simpson : All I can say on this one, Mr. Swart, is I have a fairly steady dialogue with the registrar of mortgage brokers, which is the area of direct interest to our division. I happen to know that between the registrar of mortgage brokers and the director of investigation and their counterparts, the working people at the OSC, there is a very extensive amount of dialogue: crossing the street; sending of materials; transferring of cases for action.

I do not have a list of specific matters under way, so I could not say, "Yes, on a charge of something, there was." But I believe that all the elements are there for that process to work. I would be quite surprised if either of us was unaware these days, at least on what the other is thinking in respect of that particular area, of what is being worked on.

There is nothing more I know than that.

Hon. Mr. Walker: Mr. Knowles, I wonder if you might just supplement that.

Mr. Knowles: The introduction of computerized technology to the ministry and its various agencies is very much something that the OSC is not involved with as far as its setting up or its integration are concerned. We are well aware that it is going on and I believe, as Mr. Simpson has said, he is working with the appropriate people at our branch to bring that technology into being. How that gets integrated with the court systems throughout the whole province, I do not know.

Indeed, I do not know whether it stretches beyond the boundaries of the provinces or whatever, but it is my understanding as a relator, a person who lays charges, if I were to go up to Kenora and lay a charge up there in my personal capacity, I do not know how that is picked up into a master computer system and brought on stream. I just do not know the answer to that. That is something I think you would have to ask Mr. Simpson about, whether he is tied into the court systems or what.

Mr. Swart: Maybe I do not understand enough of the procedures, but if the OSC is going to lay charges and does lay charges, would not this have been automatically transferred—and I would like the answer in two parts—if it is relative to the registrar of mortgage brokers, for instance, to his branch? Are there not instructions, if charges are laid under OSC, that the

other people who are concerned with that, such as a mortgage broker, are automatically notified of that? Were they before, and are they now?

Hon. Mr. Walker: That is the point, I think. Mr. Knowles, of course, is somewhat above that level of it, because it is done on a staff level; but the staff level includes Mr. Simpson, who is directly involved in the transmission and sits in often on the meetings. So Mr. Simpson might offer you the answer to your question better.

Mr. Swart: Yes, and Mr. Simpson did make those general comments, that there is a lot of discussion, a lot of information. But I am asking a specific question: If charges are laid, is not that information transferred to other branches of the ministry which have a direct concern with it? Is that not automatic? Are there no such instructions in the ministry?

Hon. Mr. Walker: I will ask Mr. Simpson to respond to that.

12:30 p.m.

Mr. Simpson: If you are asking me if we do, the answer is yes.

Mr. Swart: Does the OSC?

Mr. Simpson: I do not know what internal policy they have. I have indicated, Mr. Swart, that I think I would be surprised if our people were not aware of what the OSC was contemplating in this particular area, judging by the traffic in information back and forth that I am aware of. I am not talking now about securities, generally, and the many things they are involved in, but certainly in this particular area I would be quite surprised. I cannot answer on policy. Our policy is to tell them.

Mr. Swart: Then I ask you, Mr. Minister. If you cannot tell me yourself, to whom should my question be directed so I may get a yes or no answer on what took place before and what takes place now?

Hon. Mr. Walker: Mr. Knowles might like to answer the aspect of that question relating to the general policy.

Mr. Knowles: The general policy, as I understand it, is that all information that we have, whether it is related to the laying of charges or other information, is to be transmitted to what are determined to be the appropriate agencies of either the province or other governments, unless there is a specific reason why it is not to be transmitted.

Reasons crop up from time to time which necessitate that information be kept within the confines of the OSC for the better administra-

tion of the OSC act and, we think, for the administration of justice, which is certainly a mandate far beyond our own, and we therefore make a determination that it should not be transmitted.

There is an overall policy which does exist, an overall policy directive that information should be shared by all enforcement agencies, not only in the ministry but elsewhere, including in some cases internationally, unless there is a specific reason in a specific instance for not doing so.

Hon. Mr. Walker: To be specific, this is transmitted at the investigation level. The chief executive officers give you the policy, and we expect this is being carried out. In that these people are meeting, and since Mr. Simpson has indicated that there is a lot of flow back and forth, we would have to assume it as being carried out extensively, if not 100 per cent.

Mr. Swart: I want to know a little bit more about how that operates. We know from the investigation which took place last winter that in fact that was not taking place.

Hon. Mr. Walker: That is what I am saying. This is the positive aspect that comes out of all this, that we are now getting this done properly.

Mr. Swart: Who makes the decision on whether it is done? Does it automatically go out unless some supervisor in a department says it shall not go out? I am referring now specifically to the laying of charges.

I realize there is a lot more information than that, but certainly it seems to me if you are at the point where charges are laid, I cannot see, offhand—you may be able to explain to me—that once charges are laid why there would be any reason for knowledge of that not being transmitted to the other branches of the ministry or other enforcement agencies.

Who makes that decision? Does every one have to be processed through a supervisor, or do they do it automatically unless someone picks it out? I want to know how that process works, because it can get bogged down once again.

Hon. Mr. Walker: I cannot answer that. I will ask Mr. Knowles to respond.

Mr. Knowles: I will respond, and again I will note that my director, Charles Salter, QC, is in the audience and can correct me if I make an incorrect statement on the operation. Mr. Salter, as the director, is the chief administrative officer, by statute, of the Securities Act and of the commission.

The standing instruction is that information is to be communicated unless there is a specific

reason for not doing so. When an investigation is started at the OSC, unless there is a reason for not advising the commissioners—for example, if I were the subject matter of the investigation, they would hardly advise me that they were investigating me—the staff is given sufficient latitude that they have the authority to investigate even the commissioners.

In the process they open an investigation file. The chairman, the vice-chairman and the director are made aware that the investigation file has been opened and the staff proceeds, under the direct supervision of the deputy director of enforcement, Mr. John Leybourne, to complete the investigation. He determines who in the enforcement staff will be assigned to the investigation. He liaises with them to the extent that they require assistance, guidance or direction. The actual investigators—some are lawyers, accountants or ex-police officers; he has a multiplicity of skills in his department—report to him, and he decides what should or should not be done on the investigation file.

He acts, in effect, as the agent or the alter ego of the director of the commission, Mr. Salter, in performing that function. If they decide to lay charges under the Securities Act they would make a recommendation to do so and, if authorized to do so, they would go ahead.

Under my chairmanship I would leave that to the director unless he thought that he should bring it to me. He is the chief administrative officer and, in the area of charges, the commission should remain in the background unless there is a specific reason—I know this is vague but this is how it actually works—unless there is a specific reason for bringing the commissioners into the act.

The laying of charges is done at the level of the director or deputy director of enforcement, who is a responsible officer. As a person working at the OSC, no investigator, whatever his qualifications, would be at liberty to lay charges in court on behalf of the OSC. Private individuals can lay charges; whether private individuals can lay them under the Securities Act I do not know, but I assume that they could. If that is true, I suppose the investigator, if he were sufficiently angry with the direction he received, could go and lay his own charge.

The charges are not made willy-nilly. They move up through the whole investigation staff to the peak of the pyramid, which is the deputy director of enforcement; and standing right over his shoulder is the director of the OSC.

Mr. Salter, I do not know whether or not you formally bring all charges to our attention before you lay them. Perhaps you could respond.

Hon. Mr. Walker: Mr. Salter, would you come forward and answer that question? There is a microphone beside Mr. Simpson.

Mr. Salter: The process is even stricter than my chairman has sketched for you, Mr. Swart. As he has stated, the recommendation comes forward through the staff to the commission. At that level, if charges are to be laid under the Securities Act, the consent of the minister must, under the statute, be sought and obtained. If the proceeding is to take place in the Supreme Court on the civil side, or before the commission, then specific instructions from the commission must be received by the staff before those proceedings are taken.

Mr. Swart: Thank you for that information. This will be my final supplementary. I still want to get back to the dissemination of information, particularly if charges are laid. Are there, now, written guidelines about the transfer of information from one branch to another, or from one enforcement agency to another?

Mr. Knowles: To my knowledge, not in the form of an actual written guideline. There is the policy of the OSC. Mr. Director, have you or I issued a written a directive that I am not aware of?

12:40 p.m.

Mr. Swart: Is the policy of the OSC written down?

Mr. Knowles: I do not know. Charles, do you know whether we have a piece of writing?

Mr. Salter: Within the last year the commission underlined for its staff the instructions that have been in place for ever, certainly in my time at the commission. That is, that the normal confidentiality which we must observe does not prevent commission staff from communicating, as may be appropriate, with other law enforcement agencies.

Specifically, the fact of the laying of a criminal charge or a Securities Act charge at the instance of the commission would be communicated to the Canadian Police Information Centre, a computerized facility maintained by the RCMP. That facility is used by law enforcement agencies, including securities law enforcement agencies, across the country. I should mention as well, and Mr. Simpson has already stated this, the communication between enforcement staff of the commission and of his division is close and continuous.

Mr. Knowles: Mr. Salter, can I ask you to supplement your answer to Mr. Swart by explaining to him the operation of section 14 of the act, which deals with the consent of the commission concerning investigations and reports, and so on, and how that relates to section 11?

Mr. Salter: If the commission orders an investigation under section 11, upon the completion of that investigation, staff are obliged by statute to report the results of that investigation fully and in writing to the commission.

Mr. Swart: I have no more questions. I conclude by saying I am really astounded that there are no guidelines in writing with regard to the dispersal of information. The whole excuse that was made on the Re-Mor issue last winter was that information never got from one section to another. It is almost unbelievable to me now that this has not been rectified by something in writing from you, Mr. Minister, if from no one else.

Hon. Mr. Walker: Let me ask Mr. Knowles to respond to that for a moment.

Mr. Knowles: The guidelines on sharing information cannot be reduced to a code in writing without an amendment to the Securities Act or a change in the pattern of what goes on. Mr. Salter did not address this point, but when there has been a formal investigation no one is allowed to discuss what went on in that investigation, including the people who have been questioned under oath and their counsel, neither can information be communicated that there was an investigation unless the commission gives its consent to it under section 14.

The standing instruction Mr. Salter talked about is that the commission has not issued a formal ruling, but has told its director and deputy director that, to the extent that the sharing of that type of information is required in the view of those two senior staff people, they should share the information with people such as Mr. Simpson and the organization Mr. Simpson represents. It is an attractive remedy to search for the certainty and precision of formulae, or to reduce things to writing that will apply to all situations.

In this type of circumstance, the facts that arise with the individuals who are the subject matter of these types of investigations require delicacy and discretion in dealing with them. There do exist, sir, situations, some of which are at present before the OSC—by which I mean today—where in the exercise of discretion the names of the people involved simply cannot be released, for very cogent reasons, at this time.

Ultimately, because you are dealing with personal liberties, reputations and this type of thing, the whole thing has to be "sunlighted" to prevent the ripple effect of their behaviour affecting other people. As Mr. Bradley mentioned in a comment to one of his colleagues, people are adversely affected. You have to make a discretion decision that the benefit of pursuing the investigation to its ultimate conclusion in law—someone going to jail, being fined, or whatever—is a benefit that is too costly to achieve. So you blow your investigations by blowing the cover and disseminating information.

We could be criticized on either side of that, and we are quite prepared to be criticized. We are quite prepared to say that the judgement of someone else is to the contrary. All you can say in that is that specific individuals, on specific days, with specific facts, exercised their discretion or their judgemental powers in a particular way which, a second later, other individuals with or without the same information, might exercise it in a different way.

I would be reluctant, as the statutory chief executive officer of the commission, to attempt to fetter the discretion of my investigators and my senior staff people by giving them specific guidelines. In addition, I am sure that each of my commissioners would individually say, "Then get someone else to be a commissioner, because until they amend the statute it is my discretion whether to release it or not, and if you are going to ignore it, then you do not need me." That is a simple amendment to the statute. You say, "All investigations shall be reported to X the day they are open," and so on.

Mr. Swart: I am not talking about amending the statute. But we saw the ultimate—at least you people say it was the ultimate—in the lack of communication within one ministry at the hearings, and now you are saying to us it is still all verbal. Surely there could be guidelines set up.

Hon. Mr. Walker: The operative thing is what is being done now. You are kind of ignoring the fact that there is a policy in place today that is actual practice. It would be foolish for us to say that we have not learned some things from the previous happenings. The approach we are taking is a very useful approach, particularly as it will involve the accumulation of information as it relates to individuals who may or may not be before the securities commission or, say, the registrar of motor vehicles.

Mr. Swart: And everything will be back in their respective cocoons.

Hon. Mr. Walker: I would like to think that is not the case. You have heard a very good explanation from Mr. Knowles on just how far they can go.

Mr. Swart: I will not take any more time.

Mr. Bradley: Mr. Simpson, may I assume that you stand by your statement that if in May 1979 the charges against Montemurro and others had been filed and announced, that action would have put the cap on the Re-Mor brokerage registration? Would you still stand by that statement?

Hon. Mr. Walker: I ask Mr. Simpson to answer that.

Mr. Simpson: Mr. Bradley, I cannot recall the specifics of the discussion I had with whoever the writer was. It was a very brief discussion. Whether I said "cap," or "put a lid on," or "give us a shot," or something else, I would have spoken euphemistically. But I believe what I said was, "Okay, if something had hit somewhere," I indicated that would have given someone a shot. There would have been another signal, reminder or something. Yes, I believe I made that general comment.

Mr. Bradley: Thank you, Mr. Simpson. I would like to continue with Mr. Knowles, if I may, to see if I can elicit some comments. The minister has exercised certain guidance. I will take about a minute to put something into context and then ask Mr. Knowles to comment as he sees fit, or as the minister guides.

12:50 p.m.

The next item I would like to talk about is the C and M receivership application. Members will recall that this was really the first tentacle of the Montemurro empire that any of the regulators dealt with in a serious manner. As I mentioned earlier, the Montemurro companies collapsed in late April and early May of 1980. However, more than a year earlier, the OSC brought an application to place C and M into receivership. The end result was not an actual receivership, but instead a situation where Montemurro was given two years to wind down the company under the supervision of a receiver with his personal guarantee to pay out any investors who were not paid out by then. In addition, Montemurro put up \$500,000 as security.

During the Re-Mor inquiry last January, Mr. Bray suggested that this was the court's idea. Mr. Bray said, and I quote: "It was the direction of the court, as I recall it, and he, in effect, acted as an arbitrator and directed it. I would rather have seen the receiver called in."

However, this matter arose because Montemurro's lawyers had made a counterproposal to the Ontario Securities Commission. It would appear that the OSC went for it. The judge, on his part, had said in his remarks: "If such arrangements"—that is the supervised winding down—"can be worked out and they are satisfactory in my view, I will entertain them. Otherwise, that order"—that is, the receivership order—"will take full force and effect."

What the judge said was either a supervised winding down or a full receivership. Surely, it was the Ontario Securities Commission that acquiesced; this winding down solution was not imposed by the judge. Would you be in a position to make a comment on whether you feel it was actually imposed by the judge or was the idea of the Ontario Securities Commission?

Hon. Mr. Walker: I am going to direct Mr. Knowles not to answer that question.

Mr. Bradley: On what basis?

Hon. Mr. Walker: The civil suits are the ones which are the biggest consideration at the moment. You realize that the civil suits are being brought by taxpayers and brought against the provincial government. What you are now touching on is getting into the aspect of matters that may affect the outcome of those suits one way or the other, helpful or not helpful to taxpayers, or helpful or not helpful to Ontario. Whatever the situation is, I want Mr. Knowles not to reply to that specific aspect.

Mr. Bradley: I do not agree with the minister. I appreciate the minister has the right to exercise that guidance, but I do not agree that answering a question on whether this was imposed by the judge or was the idea of the Ontario Securities Commission will affect that. I do not see that as being the case, but I accept your decision.

Hon. Mr. Walker: I am not arriving at this conclusion in a vacuum. I am having some consultation on it.

Mr. Bradley: No, I realize that.

Hon. Mr. Walker: We have tried to be as co-operative as is humanly possible on the questions, and we have tried to see how far we could go without getting into it. We have reached the point where to breach that line would cause us to go into a position that our crown counsel have advised us, through the Attorney General directly, not to proceed in.

Please be assured that we are not taking this course as a simple flight of fancy. We are doing this on the advice of the chief law officers of the

crown, who have given us some direction in the matter. We had some consultation, you know that. Those were the directions. We are trying to effect that direction as best as possible.

As I say, we have tried to go as far as we can and we have tried to answer as specifically as possible the questions you have raised without having to resort to mentioning this aspect of the concern of jeopardizing a case which is before the court, either a criminal case or the civil litigation case, both of which have great consequences. So, given that framework, given what we are trying to provide you, I think we have gone a long way. It is just that at the moment you have touched on an area which makes it very difficult for us to answer, given the qualification, the direction we have received from the chief law officers, the crown law officers.

Mr. Bradley: The minister will recall, however, that Mr. Bray—

Mr. Williams: On a point of order, just before we adjourn at one o'clock and before Mr. Bradley continues now and perhaps on to the next day, I would just like to ascertain from you, Mr. Chairman, if I could, as to where we stand procedurally at this point.

As I understand it, the majority of members of the committee had agreed to ration the time for the estimates to the different sections. I believe the ministry administration allocation was five hours and that went almost an hour beyond that time. I understand the time allotted for commercial standards is six hours. Could you advise the committee how much longer we have to go on commercial standards?

Whether we stay on this subject or not is not my concern. I am just wondering what our time allocation is here, because I think we should endeavour to stay within the time limitations as agreed to by the majority of the members of the committee.

For the purposes of the next day, would you indicate how much longer we will be on commercial standards? We will be moving then, I guess, to technical standards for two hours after that.

Mr. Chairman: Mr. Williams, you are correct, we went five hours and 49 minutes on the first item, for which five hours was allocated; that put us 49 minutes behind. We have now used four hours and 42 minutes of the six hours, so on the face of it we have an hour and 18 minutes left for the commercial standards section without taking up the slack or making up the time of the overrun on the first section. Does that answer your question?

Mr. Williams: Yes, it does. Just one further question: As I say, it is immaterial to me whether the whole of this particular part of the estimates is limited to dealing with securities. There is certainly a fair degree of interest being demonstrated by the opposition members and I am certainly not one who wants to interfere with that. But there may be other matters that the other members want to discuss as well, on this particular commercial standards section.

I am just wondering if any indication had been made to you as to whether there were other areas the committee would be given an opportunity to delve into under commercial standards or whether Mr. Bradley and Mr. Swart want to continue for the next hour and 18 minutes on this one topic.

Mr. Bradley: In this regard, Mr. Chairman, I do have some other areas I would like to explore, although I do not seem to be getting too far.

I would note as well, if I may, Mr. Williams, because I was in midsentence at the time, when he was before the committee on a previous occasion Mr. Bray showed no reluctance to deal with the very questions the minister has told Mr. Knowles not to deal with. Mr. Bray was more than pleased, or at least did deal with them when the Attorney General of the province was saying there were court proceedings, criminal and civil, at that time. Mr. Bray was quite willing to deal with them, but the minister is saying Mr. Knowles should not.

Hon. Mr. Walker: But the criminal charges have now been laid and I do not believe they had been at the time Mr. Bray was here before.

Mr. Bradley: You are claiming they were at the time.

Mr. Williams: Could we resolve the procedural matter I was raising with you?

Interjections.

Mr. Swart: There are one or two or three other items and time is running out. I would think that we should endeavour to bring the OSC to a close very quickly, not that I want to cut off my colleague, but we only have an hour and 18 minutes left. Even though we are a little bit flexible on the time there are other things we should be discussing.

Mr. Williams: I do not think we should be flexible enough to go an hour beyond our agreed upon time, Mr. Swart.

Mr. Swart: I would hope that we could draw it to a close rather soon after we reconvene tomorrow afternoon.

Mr. Bradley: The only point I would add to that as a point of order, Mr. Chairman, is that I vividly recall the comments of each of the Progressive Conservative members on this committee, to the effect that if we waited until the estimates we would have our chance then; and here are the estimates. Although they have been co-operative up to this point, I think, in providing the opposition with the opportunity to ask these questions, I have expressed concern again about the six hours, but that is why I think we want to proceed in this direction—

1 p.m.

Mr. Williams: Mr. Chairman, I have said twice, quite clearly and specifically, so there would be no misunderstanding as to the purpose of my questioning, that if Mr. Bradley wants to use the remaining hour and 18 minutes for this one topic he is free to do so. I have no compulsion about trying to intervene with other topics or discussions that would in any way divert the time to which you feel you should be entitled to deal with the issue. I am just trying to get some clarification for the benefit of other members of this committee who might have other issues they want to talk about under commercial standards.

I am prepared to sit and wait and let you use up the next hour and 18 minutes, but maybe Mr. Swart and other members of your own caucus may have other issues. I am just trying to get some direction from the chair. I have no intention of in any way interrupting or minimizing the amount of time you want to spend on this issue. I am just trying to get direction for tomorrow's discussions.

Mr. Chairman, could you give us some clarification?

Interjections.

Mr. Chairman: Order. Mr. Piché and Mr. Gordon and Mr. Bradley, the minister has the floor. Order.

Hon. Mr. Walker: Mr. Chairman, I cannot let Mr. Bradley's comments go by without some observation on my part. This morning we have spent two hours and 45 minutes dealing almost entirely with questions he has raised with only maybe two dozen minutes at best being spent on some of Mr. Swart's interjections and only four or five minutes on Conservative interjections.

Mr. Knowles has been here, Mr. Salter has been before you, Mr. Simpson has been before you; questions have been asked, posed, and there is only one area which we felt breached the direction we had received from the crown

law officers. Every other question, and there were copious questions posed by Mr. Bradley, mostly to the officials of the ministry, all of those questions have been answered. Only one area falls into the category of being somewhat difficult.

For Mr. Bradley to say that he is not getting very far, means that on one question, the very last one, he is not getting very far. You said you were not getting very far, I am quoting your words twice. Am I wrong? I heard him say that and I think others have agreed.

The other thing I would like to ask as we adjourn is there was some understanding that Rembrandt was going to come on at 12 or 12:30 and that has not occurred. That is still within this area and no doubt there is some interest left in that. There was some intention to foreclose the further discussion on the securities commission. Mr. Knowles has indicated to me that tomorrow is packed with hearings. That makes it uncomfortable for him to return. Of course, if you direct, I think we would have to consider the direction as being probably reasonable, but there are people who are going to be inconvenienced.

If it were not inconvenient to members, if it were possible perhaps for Mr. Bradley even to submit his questions in writing and have them answered in the same way Mr. Renwick did when he found he was unable to return this week, maybe that is a way of answering the remaining one or two questions he might have.

If it is possible to free up the commission and let them go back to doing the work for which they are mandated, particularly with the hearings that have been scheduled for tomorrow, if that meets with Mr. Swart's views or meets with Mr. Bradley's views, that would be convenient now and certainly to the benefit of the citizens who are appearing at the hearings tomorrow.

Mr. Bradley: I will submit my further questions to the securities commission in writing to Mr. Knowles and receive the answers in that fashion.

Hon. Mr. Walker: Does that mean then that we can dispatch the members of the commission to return to their work and not to return here?

Mr. Bradley: In view of the time that is remaining, and I want to see it spread out, I think that is a satisfactory way of handling it.

Mr. Williams: I gather then, Mr. Chairman, we will go on to other topics under this particular heading of the estimates the next day, is that correct?

Mr. Chairman: Can we have that clarified? Are we all through with 1502, item 1, the section on securities?

Item 1 agreed to.

Mr. Chairman: So we will commence after routine proceedings tomorrow with vote 1502, item 2, pension plans.

Hon. Mr. Walker: Mr. Chairman, whom do you want tomorrow?

Mr. Bradley: The Rembrandt one might—

Mr. Swart: The Rembrandt Homes do not come under pensions. I am not sure just where it comes under here, but I would like to have that on.

Hon. Mr. Walker: Business practices.

Mr. Williams: We have to deal with matters in their order. That was agreed to, I believe, Mr. Chairman, that we would deal with the estimates—

Mr. Chairman: I know nothing about Rembrandt. Is it business practices? Would it fall under that?

Mr. Swart: It really falls under the Housing and Urban Development Association of Canada, but there was an agreement made in this committee that we would deal with that topic under this vote.

Mr. Chairman: I understand. I did get a nod from the gentleman in charge of the business practices division that that would be the item under which it would come.

Mr. Swart: According to your timing, we have what, an hour and 18 minutes?

Mr. Chairman: Perhaps even an hour and 10 minutes left now.

Mr. Swart: There has been agreement that we get to that, that it be discussed under this vote.

Mr. Chairman: Yes, that is correct.

Mr. Swart: It may only take half an hour, but I would like to have that discussed first.

Mr. Williams: As for being first, certainly, Mr. Chairman, if we are taking things in order—

Mr. Chairman: I believe we have understood that Rembrandt will come up definitely under this vote.

Mr. Williams: The HUDAC home warranty program will come under this vote, that is correct. There may be other matters that have to be discussed that other members have an interest in before that comes up.

Mr. Swart: We went a bit further than just

that HUDAC would come under this vote. It was my understanding that there was agreement that Rembrandt would be discussed.

Mr. Williams: That the home warranty program would be discussed.

Mr. Swart: I do not want us to run out of time, or something of that nature, that is why I think we came to an agreement on it.

Mr. Chairman: Can you then, Mr. Minister, have the appropriate people here tomorrow to deal with Rembrandt and HUDAC and the remainder of vote 1502?

Hon. Mr. Walker: All right.

The committee adjourned at 1:06 p.m.

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No. J-14

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations



First Session, Thirty-Second Parliament

Thursday, November 5, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, November 5, 1981

The committee met at 4:27 p.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: I see a quorum. We are in the midst of vote 1502, item 2. We have 14 hours and 17 minutes left, with one hour and six minutes left on the commercial standards section, according to the timetable we are trying to adhere to.

On vote 1502, commercial standards program; item 2, pension plans:

Hon. Mr. Walker: Mr. Chairman, as we begin the pensions section of the vote, I would just like to say that it involves two aspects. One, of course, involves Mr. Wells Bentley who is a noted expert in the field, perhaps the Canadian expert when it comes to pensions matters, as some of you know from dealing with him on the select committee this summer. Also, it involves Donna Haley, QC., who was chairman of the royal commission. Donna Haley has just been elevated to the bench to become a member of the county court panel. She is not here at this time, but for discussions of pensions we would be glad to make sure she is here. However, I think Mr. Bentley could answer any of the technical matters that might arise.

I want to say in a formal way, for the benefit of Hansard, we congratulate Donna Haley on her elevation to the bench. One thing that perhaps delights us more than anything is the fact that she has agreed to continue on as chairman of the commission, because so much of the information she has is inherent to the ongoing discussions the government and all parties are going to have relating to pensions in the next year or so. I am very pleased she has agreed to stay on.

In addition to that, Mr. Bentley is staying on as well. Mr. Bentley has reached the magic age of 65. While normally he might have decided to grow petunias in his leisure time—he may still—we are going to try to occupy his time with pension matters for the next year or so. He has agreed to stay on beyond his normal pensionable age. We are delighted on both counts by the nonretirements of the individuals involved.

Mr. T. P. Reid: Is this service pensionable?

Hon. Mr. Walker: Probably.

Mr. Williams: Mr. Chairman, just on the point of recognizing Miss Haley on her elevation to the bench, I was participating this morning in the Canadian pension conference at the Holiday Inn. Miss Haley was one of the panelists there. I had an opportunity at that time to convey those same sentiments to her publicly. I am glad you have seen fit to recognize her successes here at the committee, Mr. Minister. I just wanted to let you know that I publicly made those sentiments this morning.

On the other point, dealing with the other individual to whom you refer, Wells Bentley, as a member of the pension committee, I can only say has been a driving force in the ongoing work and activities of the committee and has been of invaluable assistance to the committee. I am sure all members in all caucuses will agree with that observation. While there may be questions that would normally be asked about pensions here today, given that the select committee is dealing with the matter, it may dilute the need for such questions coming forward. However, Mr. Bentley is here, and I am sure he would be willing to answer any questions that members who are not on the select committee might want to raise with him at this time.

4:30 p.m.

Mr. Swart: Mr. Chairman, I would like to associate myself with the congratulations which were made by the minister. We welcome the fact that both of these people are going to stay on and provide service. I believe they are highly respected in their fields.

It is unusual for me to agree with Mr. Williams, but perhaps there is not a great deal of need to spend a large amount of time on pensions here with what else is taking place. In that regard, I would like to ask the minister, if he has any statement he would like to make about scheduling and timing, when can we expect legislation or any other comments? This is a matter of great import to many people. I am not passing over it; it is just that we want to know the procedures in order to get them hurried along. The details perhaps do not need a great deal of discussion here.

Hon. Mr. Walker: Mr. Chairman, I know that Mr. Bentley would feel disappointed if we did not spend a great deal of time on pensions since he has come here prepared to read to us 126 optional clauses he has in mind for future pensions. He would like them to be read into the record and perhaps time could be set aside for that.

I thought you would like to hear those, but assuming that may not necessarily be the case, relative to the actual decisions that flow from the interim or first report of the select committee on pensions, any direct action would no doubt be taken on the initiative of the Treasurer (Mr. F. S. Miller). I am responsible for the administration and the Treasurer is responsible for the thinking part of it in our divided responsibilities. Any options would be taken by him.

The interim report has been submitted. It is intended that the next report would come down with some more thorough vetting of a number of matters and that these matters would be forthcoming—I gather, in the spring, Mr. Williams, if I am correct? That being the case, there is likely not going to be any great movement made in the pensions area until the final report comes down.

On the other hand, the recommendations that have been put forward to date are being circulated amongst the industry and some initial positions will likely be taken. It is very useful to have these preliminary views. Certainly we can agree with the general thrust of a good number of them. I think all of us feel quite comfortable with the idea of an earlier vesting and the prospect of five years, I think, will be very attractive.

Mr. Swart: Disclosure.

Hon. Mr. Walker: Yes. I think that right now we are basically working on the concept of uniformity of pensions across Canada. You will be pleased to know we are very close, I believe, to a written agreement being submitted on uniformity of pensions legislation. We are quite happy with the agreement that has been reached now by all the provinces.

This committee of a group called CAPSA, the Canadian Association of Pension Supervisory Authorities, is chaired by Donna Haley and is the equivalent of the first ministers, who are meeting in Ottawa at the very moment, as it relates to pensions. There is a strong underlying agreement that has been hammered out in large respect by Donna Haley. With the help of Wells Bentley, she has hammered out some agree-

ment, and I believe we will be in a position before long to submit to you suggestions for uniformity in Canadian pensions.

That can only be good. Getting such diverse provinces as some of the Maritimes and some of the western provinces with Ontario, and especially Quebec, on side, all singing from the same hymn book is quite an accomplishment. So we are happy with the direction the matter of pensions is going in.

Mr. Swart: I am not unhappy with the report, but I shall pursue that with another question or two. Do you anticipate that there will be legislation tabled next spring? It was my impression that you would have some prime responsibility for that legislation. Am I wrong in that?

Hon. Mr. Walker: I may have in the technical aspect of it. The decisions rest with the Treasurer who is the policy chairman in that area. All pension matters come directly under him, except for certain technical aspects.

Mr. Bentley, why do you not come forward here? You might be able to help us out a bit.

Mr. Williams: While he is coming forward, Mr. Minister, for the benefit of the other members of the committee, I think the feeling amongst the members on the select committee is that we shall go back into session, given the authorization by the House, between this session and the next in the hope that we would be able to move towards a final report.

I cannot speak, of course, on behalf of the minister as to when legislation would develop from either the interim or the final report, but as far as the committee is concerned, time is very much of the essence. We hope to be able to put the ministry and ministries in a position of developing legislation at the earliest opportunity.

Mr. Swart: I am sure we shall want to question the minister before we turn it over, because these are policy decisions and this has been in the works a long time now. How long is it since the royal commission was first appointed?

Mr. Bentley: Four years ago.

Mr. Swart: If we get a recommendation of a committee and then that takes discussion, it will be another year or two down the road.

Hon. Mr. Walker: We have only had the report of the committee for a week and a half now. It was tabled on Tuesday.

Mr. Swart: That is an interim report and legislation still can be a long way down the road.

Is it a probability that there can be some

interim legislation introduced where there is unanimity on the committee, or even where there is not, where there is some urgency? The matters of disclosure and vesting are very important to a great many people at this time.

Hon. Mr. Walker: First of all, the decisions have to be made. Of course, there is a prospect of interim legislation or interim adjustments or interim policy decisions, but I think it is incumbent on government, myself, other members of the cabinet, and particularly the Treasurer, to digest the report that has been submitted. We do feel there are a number of good recommendations and we are impressed by the work of the committee.

The Treasurer has a direct input because of his fiscal responsibilities and the fiscal nature of many of the decisions as they relate to pensions and how the funds and the capital markets intertwine. But he will undoubtedly have to digest everything that is in the report and he will undoubtedly have to come to some conclusions, and no doubt be aided by our people and by some of the observations I might make. It is far too premature at this time to suggest to you that there is going to be legislation.

Given the nature of where we have been going and the nature of this kind of report, as opposed to other kinds of reports, my suspicion is that if it is anything like the past, there will be something flowing from it, and no doubt that will manifest itself in some legislative form at some time.

Mr. Swart: You are talking about the existing report?

Hon. Mr. Walker: The existing report, yes. You will not see it this fall, so far as I am aware.

Mr. Swart: No. I would like to see it next spring.

Hon. Mr. Walker: I think that is entirely possible. I could see the government perhaps making some observations in its throne speech, but that is down the way. And you know that anything we put in the throne speech, we do.

Mr. T. P. Reid: Yes, in the fullness of time.

Mr. Swart: If you can interpret it.

Mr. T. P. Reid: I do not pretend to be an expert on this, but I have about three questions. One deals with a letter I think all members have received in regard to the teachers' superannuation program, in which some of the people who have been pensioned off are complaining that they do not have any say on the board. I suppose it is a rhetorical question because we do not

know what the legislation is going to be, when it will be presented or what is going to be in it, but is the topic under consideration that people who do have a vested interest might be represented on the board?

4:40 p.m.

Hon. Mr. Walker: People who do have a vested interest right now are represented on the board. Of course, we are talking about the Ontario municipal employees retirement system. That is what you are talking about, are you not?

Mr. T. P. Reid: The teachers' superannuation program.

Hon. Mr. Walker: Sorry, I am thinking of OMERS where the same argument applies. We have Mr. Bentley here. Mr. Bentley, tell us what you know on this.

Mr. Bentley: Mr. Minister, I know that requests have been made to OMERS and to others for representation by retired people. I know there are active employees on the OMERS board, but no retired members, and I think I know the brief you are talking about.

I know, Mr. Williams, in the select committee report we have indicated we feel there should be employee representation, but we did not define employee to mean an active employee or a former employee. I think that is something we shall probably have to consider when the select committee meets again because there is a difference. I think by implication our recommendation really was directed towards the active employee representation rather than anything else.

Mr. Williams: That was the intent?

Mr. Bentley: That is right.

Mr. T. P. Reid: On superannuation, it came to our attention in the public accounts committee a few years ago that the unfunded liability was over \$1 billion. We have had this out with the then Treasurer, Mr. McKeough. He did not really agree with the committee that school boards have the opportunity to increase the pensions of teachers through negotiation, to say, "All right, we shall increase them," or whatever.

The provincial legislation contains clauses that say the province will meet the obligations the school boards agree to. In other words, the province will pick up the unfunded liability. It seems to me that is a hell of a position for the province to be in in terms of any kind of controlling of expenditures, and that there is not

a great deal of incentive, for school boards particularly, not to agree to fairly hefty increases in pensions.

Mr. Minister, do you have responsibility, or is it the Treasury's, for ensuring that the pension funds are actuarially correct? Do you deal with that?

Hon. Mr. Walker: Yes, and I would like Mr. Bentley to give you a much fuller explanation of this. Those are some interesting observations.

Mr. Bentley: The requirement under law, whether it is the teachers' or a private pension plan, is that they must report to the pension commission. They must prepare their valuation report, using assumptions and methods acceptable to the pension commission. In other words, we are not going to accept an interest assumption that is way out of the ball park. It has to be within the ball park.

The teachers' superannuation fund comes under the same principles as any other employer's pension plan. With respect to any unfunded liability that exists for benefits that have been granted for past service, whatever the situation may be, our concern simply is that somebody has to be responsible for the continuing amortization of that unfunded liability in accordance with the requirements of the Pension Benefits Act.

If it is the teachers and if it is guaranteed by the provincial government, that is a little bit more secure as far as we are concerned than it would be if it is a private individual or a private employer where we have to rely on the resources of that employer. That is the only difference between the two of them.

Mr. T. P. Reid: I guess I shall have to go back at the Treasurer obviously, because that does not fall within your jurisdiction, in particular, in that case.

I have just one more question, if I may, which follows from what Mr. Bentley has just said in guaranteeing there will be some kind of ongoing organization responsible. What is the situation with all of these companies now? I think, without being partisan, we would all agree we are going to see a lot more companies going out of business, particularly over the winter. What guarantee is there for the workers in these organizations that their pensions are going to be payable, other than the fact that presumably, as of today, according to you people, they have assured you that there is money in those funds or that they are going to be looked after?

What assurance is there that they have

invested that money, wherever; that it is actually there and that they have not done, for instance, what the province does, which is to dip into the pension funds and use it for capital expenditures or operating expenditures or something of that nature?

4:50 p.m.

Mr. Bentley: Under the law there are only certain organizations that can hold a fund. You, as an employer, under law must remit regularly to the trustee or the underwriter of the pension plan. Those funds are held separately and distinctly from your funds as an employer.

In the event that a pension plan is wound up, what the actuary has to do is to sit down and determine the accrued liability for benefits up to the date of the termination of the plan and compare it with the assets held in the pension fund. If there are sufficient assets, there are no problems. If there is a shortfall in assets, then you have to revert back to a priority situation on the distribution of the assets, and principally under law you are looking at the longer service employee who gets the better protection under law because it is unlikely he can go back into the labour force.

Mr. T. P. Reid: I guess that is really the point. What I really want to know is on what scale of one to 10 of creditors, shall we say, does the pension fund fall?

Mr. Bentley: Keep in mind that as far as the pension fund is concerned, under law it can only be held by a government, a trust company or by an insurance company under proper trust indentures, and that the trust is for the benefit of the employees and nobody else. Nobody can draw on that until we authorize the distribution of that fund.

If there is a surplus in the fund—in other words, more money than is necessary—then we can come back to your situation where some other creditor might be able to make a claim against it. Normally, there can be no distribution of the assets without the prior approval of the pension commission.

Mr. T. P. Reid: So the pension fund is the first creditor.

Mr. Bentley: The beneficiaries under the pension plan are the first creditors and it is our function to endeavour to protect them under the law.

Mr. Williams: Mr. Chairman, in winding down on this particular item, to go back to employee involvement in directing the affairs of the plan, just to clarify the point, the recom-

mentation in question, number 15 in the interim report, reads: "The Pension Benefits Act be amended to require that the employees be allowed to choose at least one member on the body directing the affairs of the plan." I think that implicitly implies an active employee.

Then it goes on and says, "The Pension Commission of Ontario should review this within three years with the view to increasing representation of employees and retirees." The three-year look down the road would perhaps broaden the scope there for participation to include retirees, but not at this point.

Item 2 agreed to.

On item 3, financial institutions:

Mr. T. P. Reid: Mr. Chairman, I always like to upset the apple cart by actually asking about money. That is something that will take some people by surprise because we never talk about money in estimates. Under the grant to the Registered Insurance Brokers of Ontario, (a) what is the grant for; (b) why does it seem to have been going up and down?

Mr. Philip: Do you borrow money the way you borrow cigarettes?

Mr. T. P. Reid: If I did I would be a rich man and I would not be here.

Mr. Swart: You would be in jail. You never pay them back.

Mr. T. P. Reid: What is it for and is it based on some kind of formula?

Hon. Mr. Walker: Mr. Chairman, as you know we are entering upon a period of self-regulation in the insurance field, at least as it relates to insurance brokers. On October 1 of this year, a board, made up of the insurance brokers, took over the regulation of the industry in the self-regulation move. That was pursuant to a bill passed in the Legislature in December of last year. We picked up the cost of carrying that operation up to October 1. After that, the entire costs were to be borne by the board. So we are paying our share in this fiscal year up to October 1.

4:50 p.m.

The board took over all of the things, such as the testing of individual people, the examinations and inspections. From October 1 on, all of that has now been taken over by the board of the Registered Insurance Brokers of Ontario. Mr. Murray Thompson, the executive director of financial institutions, has now joined us at the

table. He is the gentleman without the poppy there. We picked up the offsetting fees, which we will no longer pick up.

Mr. T. P. Reid: Are we to presume then that this item will not be in next year's budget?

Hon. Mr. Walker: Probably not at all.

Mr. Thompson: That should be correct, sir. As of October 1 we ceased our funding of the RIBO organization. I should add that our funding was limited to expenses only, and that was the bare necessity of establishing an office, necessary desks, et cetera, so they could operate in gaining expertise in the development of the examination program, the marking and the qualifying of applicants.

All the time involved by the board of directors of RIBO, which had been set up under a corporation approximately 14 or 15 months before, was donated. There was nothing more than expenses paid by the organization.

Mr. T. P. Reid: Why were we paying them \$145,000 in 1979-80 and \$403,000 in 1980-81? If you go back the last two fiscal years, we were providing them with funds as well. What was that for?

Hon. Mr. Walker: This is all part of the transition period, is it not?

Mr. Thompson: Yes, it is.

Mr. T. P. Reid: But we did not pass the legislation until last year.

Mr. Thompson: In effect, what they were doing under our supervision was setting up the transfer of 7,000 to 8,000 files to their records, setting up the names, et cetera, and bringing in the new applicants. They were processing, on my behalf, the application forms and doing the necessary work and arranging for the examinations. There is a written examination.

Mr. T. P. Reid: Before the legislation was passed?

Mr. Thompson: Yes, and reporting back to us. It was a testing and training period of time.

Mr. T. P. Reid: I just have one further question on money. Under salaries and wages we are paying \$2,178,600 this year. Last year the actual expenditure was \$2,156,892. When you look at those figures there is only a difference this year of about \$22,000.

I presume you have fired all the people dealing with Re-Mor. Why is there such a small increase? I am not recommending higher ones; do not get me wrong. How many employees does that deal with this year as opposed to last year and why is there only a \$22,000 increase?

Mr. Thompson: I think the effect of that is part of the RIBO program, because we were getting out of it and having a corresponding reduction in staff numbers. More important, in the credit union area, in the credit union branch, the real effects were coming through of the establishment of the Ontario Share and Deposit Insurance Corporation and the transfer of the examination program over to that organization. That is where substantially the staff cuts occurred, in the credit union branch and some in our agency branch.

Mr. T. P. Reid: How many people would have been affected by those moves and how many are pulling down the \$2,178,000?

Mr. Thompson: Our number now is about 85.

Mr. T. P. Reid: What was it last year?

Mr. Thompson: I would have to check back.

Mr. T. P. Reid: Would there have been 20 or 25?

Mr. Thompson: Yes, it was roughly in the area of 20, a reduction.

Mr. T. P. Reid: I wonder how all those figures match up. What happened to the people who were displaced through either the credit union change or the Registered Insurance Brokers of Ontario? I presume they went on to bigger and better things in some other government department?

Mr. Thompson: Some of them did. A lot of them were transferred within the division. Examiners who had worked in the credit union branch, for example, were transferred to the loan and trust or the insurance areas. As a matter of fact, I think all of it was done by way of transfer or attrition.

Mr. T. P. Reid: That would be in a department separate from financial institutions?

Mr. Thompson: No, it was mostly within the division. Some of them transferred out; some of them went to the Ontario Share and Deposit Insurance Corporation which was taking over this program and had need for trained personnel.

Mr. T. P. Reid: I am a little confused. If we lost somewhere near 20 people, how do you square these figures? Does that mean that the 85 who are left picked up the salaries of the 20 that are gone? How does that work?

Mr. Thompson: I think the increases are natural increments that came through and picked up the slack there. We fairly well held the line by the fact of the transfers.

Mr. T. P. Reid: Presumably, while we were saving the taxpayers' money, among other things by transferring this to RIBO, there was no net effect?

Hon. Mr. Walker: Not necessarily from the government's point of view. They have the right to make application for other jobs that have been bulletined within government. Presumably, if they did not take them, somebody from outside would have taken those jobs. From the government's point of view there has been a net decrease.

Mr. T. P. Reid: We created some jobs somewhere else and we put them there. If you add the figures up at the end of the year, there is no net gain or loss.

Hon. Mr. Walker: No, I do not think so. As a matter of fact I think you would be extremely impressed if you were privy to the complement figures. We do not take into account this contract bit because that does not skew the equation one bit. There has been a net reduction in five years of 5,000 Ontario civil servants.

Mr. T. P. Reid: I would like to be privy to that information.

Hon. Mr. Walker: I think that could be provided for you. I think it is the kind of thing the standing committee on public accounts should call for.

Mr. T. P. Reid: Yes, we will do that.

Hon. Mr. Walker: You will see at the beginning of the estimates book that there is a summary of the complement. I have been looking at page eight, the ministry position. For the year ended April 30, 1980, the figure was 2,486, whereas for the year ended April 30, 1981, it was 2,466, down by some 20. Commercial standards can demonstrate that it has come down 495 to 481, including a decrease for financial institutions from 97 to 95.

5 p.m.

Mr. T. P. Reid: The overall change in your ministry over the year is from 2,486 in April 1980 to 2,466 in April 1981, for a net change of 20.

Hon. Mr. Walker: Correct. But that only applies to the end of the first month of this fiscal year which began April 1, 1981.

Mr. T. P. Reid: How many contract employees were hired in the meantime?

Hon. Mr. Walker: I doubt there has been any material change on that. Have you got anything on that, Mr. Rivet?

Mr. Rivet: It has been reduced.

Hon. Mr. Walker: Do you want to come up to the mike? I think that is something you should explain into the microphone.

Mr. MacQuarrie: One thing that puzzles me about all of this is the fact that employee benefits have slipped substantially even though there has been a slight increase in overall salary and wages. How does all of this tie together?

Hon. Mr. Walker: Mr. Rivet, would you explain that?

Mr. Rivet: Which question am I to explain?

Mr. T. P. Reid: You can start with mine. Then Mr. MacQuarrie asked why there was a reduction in employee benefits.

Mr. MacQuarrie: As between 1979-80 to the actuals in 1980-81.

Mr. Rivet: On the question of unclassified salaries, the ministry in the current year has fewer unclassified employees and, as at present, will spend fewer dollars to the end of October. The number of dollars spent is approximately the same, but that means we have absorbed the economic increases that people have received through reduction in number of bodies by not replacing them as the projects expired. I think the average increase, depending whether it was a technical category or an administrative category, was somewhere between nine and 12 or 13 per cent.

Mr. T. P. Reid: Twenty employees overall would have that effect?

Mr. Rivet: In the unclassified, some of them last only a few months at a time for particular reasons, and then they disappear. The result is a difference of 20 man-years.

Mr. T. P. Reid: Do you mean we are not talking bodies, but man-years in these figures?

Mr. Rivet: That is what the caption says, "classified and crown employees." It would not include temporary people. We have salary and wage reduction, in addition to that, equal to the increases that people have received through the collective bargaining process. As the minister said, we have absorbed inflationary increases.

Hon. Mr. Walker: Can you answer Mr. MacQuarrie's question now?

Mr. MacQuarrie: It just struck me as being a little bit inconsistent when we look at the employee benefits in the actuals for 1979-80 and 1980-81 and the estimates of 1981-82. I normally take those as a function of total salaries and wages. We see them going down quite drastically at first, and then even more so, with very little change in the total salaries and wages.

Mr. Rivet: Employee benefits include such things as severance pay and gratuities when people retire or resign. It is a calculation based on length of service, so there can be a significant fluctuation. There can be a heavy retirement year when a lot of long-service people leave. Then in the following year, while there may be the same turnover rate, people are going out with less seniority and, therefore, fewer dollars are paid out. So they do not vary directly.

Mr. MacQuarrie: The figure of \$337,827 jumps out at one in relation to the figure for salaries. I will accept the explanation.

Mr. Rivet: I am sure we could provide details to show that in 1979-80 there were more resignations or retirements of people who were taking out larger gratuities with them than there were in 1980-81.

Mr. MacQuarrie: Then you mentioned a staff cut and so on in 1980-81, with the complement in this particular section being 14 persons less. One would think that any termination benefits would increase that figure.

Mr. Rivet: Not unless they were aged 65 and had long service would it vary directly.

Mr. Bradley: I take it we are still on financial institutions?

Mr. Chairman: Yes, that's right.

Mr. Bradley: Is there any point in my asking either of you two any questions about Astra Trust and Re-Mor, or have you got the orders from the minister not to answer a question?

Mr. Chairman: The subject has not come up since you left, Mr. Bradley.

Mr. Bradley: I know it has not come up since I left. I am quite aware of that. Nobody over there is going to ask any questions on it. We know that.

Hon. Mr. Walker: They have been waiting.

Mr. Bradley: With regard to these people, are we going to get the same answer, that you cannot answer because it is before the courts? If that is the case, there is no use my wasting my time.

Mr. MacQuarrie: With all due respect, Mr. Chairman, Mr. Bradley got that answer in respect to only one of a whole series of questions he asked.

Mr. Bradley: I know I am going to get that answer.

Mr. Chairman: Mr. Bradley addressed his question to the minister.

Hon. Mr. Walker: Let's see how far we can go on it. There are many areas where we can answer and want to answer. Try your questions on.

Mr. Swart: Mr. Chairman, on a point of order before we get into this, which is an important matter to me as well as to the member for St. Catharines, I think there was a consensus that we spend six hours on this vote. At what time would we be finished on this full vote? I think I am right in saying there was also a general consensus we should spend some time on the Rembrandt matter. I propose we conclude at six o'clock tonight.

Mr. Chairman: No, this is private members' time in the House.

Mr. Swart: Then we have to conclude by 5:50, do we not?

Mr. Chairman: We usually try to finish by 5:40 to have time to get to the House by 5:45.

Mr. Swart: Could I get an agreement then if we are going to conclude by 5:40? Is our six hours up then?

Mr. Chairman: According to the allocation, the six hours would be up at 5:35.

Mr. Swart: I want to have some time on this. There has been general agreement, and I want to work it out. If we can spend the first half hour tomorrow morning after the question period on it, I am prepared to do that. I am flexible, but I am not flexible to the extent that I want this vote to be concluded without dealing with the issue of Rembrandt Homes.

Mr. Chairman: I guess what we do, in a spirit of compromise, is to ask Mr. Bradley to hurry along with his questions.

Mr. Bradley: I can see what Mr. Swart is getting at. He did ask for that yesterday. Since we are quitting at 5:45, I think in fairness to Mr. Swart—and we both wish to ask questions on Rembrandt—I am prepared to say we can do that. At the end of the time, we will check with the members of the committee to see if they are favourable to extending the time on this particular vote. If they are not, well, that is their business. I think it is important because we made an agreement yesterday that we would get on with Rembrandt.

Mr. Chairman: Where does Rembrandt fit in your opinion, Mr. Swart?

Mr. Swart: Probably under business practices, as long as Mr. Simpson is here—he is here now—and will let us ask questions.

Mr. Williams: On this point of order, Mr. Chairman, there was an understanding to discuss Rembrandt. I have no objections to that, but I do have some difficulty with the suggestion that we breach the agreement we had come to about the number of hours that would be allowed on each vote. We should endeavour to stay within the time frame we had agreed to. I thought that was agreed to yesterday.

5:10 p.m.

Mr. Bradley: I think we should definitely spend an hour on technical standards. That is essential.

Mr. Williams: We should devote the rest of this afternoon to Rembrandt; I have no objection to that. In so doing, I want to indicate I also want to speak to this matter. I would ask that you determine how many members of the committee want to speak to Rembrandt and divide the time equally because I want to be assured of equal time on this matter.

Mr. Chairman: We do have strange points of order, but I will overlook that. Are we prepared as a group to get down to item 6 as quickly as possible? Does anyone have anything else to ask with regard to items 3, 4 or 5?

Hon. Mr. Walker: I want Mr. Bradley to get a chance to get his questions in on Astra and Re-Mor. He wants to do them and we want to answer them.

Mr. Chairman: That is the only comment I have heard as to that. How many people wish to speak to the item on business practices which, I take it, includes Rembrandt? Messrs. Bradley, Swart and Williams.

Mr. Andrewes: I do not wish to speak on Rembrandt. I have another thing on business practices I wish to address to the minister.

Mr. Williams: Before we move off the mark, I think the minister has made a point and Mr. Bradley, for the record, should indicate whether he wants the opportunity to proceed further.

Mr. Chairman: I am taking that into consideration in my timing. I am trying to get the number of people here.

Mr. Williams: I do not want us to be accused of having cut him off from the opportunity of raising further questions on the issue. I want it clearly on the record that he agreed we would move on to other matters.

Mr. Bradley: I will talk to it then if you want.

Mr. G. I. Miller: I have one question and I am not sure where it should fit in. A number of agricultural co-operatives have been shaken to

learn that it is quite possible and not too difficult for them to be taken over by private interests, even if their elected directors resist such a move. Can I bring this up on this vote?

Mr. Chairman: Where would that fit under? Business practices?

Mr. Thompson: Financial institutions.

Hon. Mr. Walker: Ask Mr. Thompson.

Mr. Chairman: It is right now, under financial institutions.

Mr. Williams: It's now or never.

Mr. G. I. Miller: Now or never?

Mr. Chairman: We have two more people who wish to speak with regard to financial institutions, Mr. Bradley and Mr. Miller. We have four people who wish to speak to business practices. May I then say 10 minutes each? That is 10 minutes for Mr. Bradley on Re-Mor, et cetera, and the same for Mr. Miller. Then we start in on business practices, allowing 10 minutes each. We will have run over, but we will be in the ball park of our agreed time. Is that a consensus?

Mr. Swart: I want to understand this exactly. Are you saying for each item or each speaker?

Mr. Chairman: Each speaker.

Mr. Swart: Ten minutes for them now will bring us to 5:35.

Mr. Chairman: Yes.

Mr. Swart: Then we have to leave here at 5:40. You are proposing that tomorrow morning we carry on?

Mr. Williams: How much time will we have left tomorrow to deal with this item?

Mr. Chairman: We will have none. We are running over, but we ran over 49 minutes on the first one. We are attempting to keep to it. In fairness to Mr. Swart, he must be allowed some time on this, but certainly not a half hour or anything like that.

Mr. Swart: I am not asking for a half hour for myself. I am saying that Rembrandt Homes should have at least a half hour.

Mr. Chairman: That's fine. That is exactly a half hour with three speakers, and 10 minutes for Mr. Andrewes on some other topic under business practices.

Mr. MacQuarrie: How many other speakers?

Mr. Chairman: That's all there are. You other people have missed your chance to speak on business practices.

Mr. Mitchell: Just for clarification, Mr. Bradley is going to have 10 minutes now to speak on whatever he wishes.

Mr. Chairman: Whatever.

Mr. Mitchell: Then when it comes to Rembrandt you have allocated—

Mr. Chairman: No. Then Mr. Miller gets 10 minutes.

Mr. Mitchell: All right. Then you have allocated 10 minutes for Swart, Bradley and Williams on Rembrandt.

Mr. Chairman: Yes.

Mr. Mitchell: That's it?

Mr. Chairman: And 10 minutes to Mr. Andrewes on some other topic under business practices.

Mr. Mitchell: What does that add up to in overtime?

Mr. Chairman: Probably 30 or 35 minutes.

Mr. Mitchell: Let that show then that there is no further extension beyond 30 minutes, because we have to proceed.

Mr. Chairman: Yes, I think that is fair.

Mr. Swart: Mr. Chairman, may I make a very slight variation, namely, that we agree if we are going to adjourn at 5:40, then let us stay on this? You have allotted 20 minutes. There is only 23 in all. We should allot one half hour on financial institutions to those three speakers tomorrow morning, so we do not start for three minutes on a new issue. You only have three speakers, do you not?

Mr. Chairman: And Mr. Andrewes.

Mr. Swart : That is 40 minutes then.

Mr. Chairman: Yes, on business practices, that is correct.

Mr. Swart: If there is no disagreement, can we have a consensus that we allow 40 minutes tomorrow under business practices, of which 30 will be allotted to Rembrandt?

Mr. Chairman: Unless something is quicker this afternoon than anticipated, in which case we might get on ahead of time.

Mr. Williams: That would include questioning of the staff and whatever?

Mr. Chairman: That will include whatever you can fit within 10 minutes.

Mr. Bradley: Within that limitation, I am

going to look at Argosy under financial institutions. No? Then Co-operative Health Services of Ontario?

Hon. Mr. Walker: Argosy was yesterday under the securities commission.

Mr. Bradley: Yes, but I thought that financial institutions may be able to provide some answers.

Hon. Mr. Walker: They have had absolutely nothing to do with it.

Mr. Bradley: That is fine. As we will recall, there were many warning signs that there were, at the very least, financial problems arising with Co-operative Health Services. I guess a general question within the context of the time has to be, why did you not act sooner in any areas in which you could to prevent this company from carrying on business?

Hon. Mr. Walker: I wonder if Mr. Thompson could handle that.

Mr. Thompson: Yes. I should say in connection with any financial institution that we examine, it is routine procedure upon the completion of the examination—and I want to emphasize what an examination is: it is basically a financial look at the operations of the company. Our procedure in doing that is to write to the chief executive officer of that company and advise on what we see may be operational deficiencies or where operational improvements might be made.

I want to say very categorically we are taking the position that there would be in this world a perfect financial institution in that particular category, and that is the approach we take. The fact that we would write, the criticism, can range from a simple matter of the way the books are kept or the way that securities are recorded on the records to something we might see as far more important. But it is not necessarily limited to, neither has it really anything to do, at that stage, with a violation of the statute. Of course, if a violation was noted, we would certainly bring that out.

In most cases these are general, overall financial reviews of what our people who actually go into this institution see. Basically, a chartered accountant from our staff enters the premises, looks at it and advises. That is the basis and context within which our examination report is given to any company that is examined by us. I just want to distinguish that that is far different to an investigation.

Mr. Bradley: I guess where the problems arose was that they were not complying with certain regulations as we know them, with the

ratios and so on, that they should have been complying with. One would have thought you might have spotted that somewhat earlier.

Mr. Thompson: No. I want to be very clear on that. The company itself had actually increased its surplus over the three preceeding years. It had been a marginal increase, but it had actually increased in surplus. The four-to-one ratio is a determination that my staff sets as a good operating standard for this perfect type of insurer.

5:20 p.m.

We also apply other tests relating to it. In this particular case, the fact that a company exceeds it by one point or something is not necessarily fatal, because if a company was writing six-month contracts instead of one-year contracts or three-year contracts, there is a shorter exposure of risk and we could adjust that yardstick to take that into account, or the number of changes or renewals that were coming in. It is basically to see that there is some form of pricing in structure.

In the whole world of the institutions we look at, from trust companies, loan corporations and credit unions to the prepaid hospitals or the co-operatives or things like that which are registered under these acts, there are different tests that are applicable. But, basically, you are really getting down to the same thing. You are taking that company and saying this is a class of company. There are certain standard tests. The so-called government tests are guidelines and are basically related to what that perfect company would be if it was operating in that area.

We do also apply guidelines established by the National Association of Insurance Commissioners, but I have to emphasize that the term guideline is an early warning sign where we are trying to say, "Maybe there is a trend developing here, and we want to caution you on this." It is not as absolute as to say an early warning test has been breached because this can happen through no fault of management or anything.

In the case of an insurance company, it may just be that a sudden catastrophic loss situation can throw it offside with one of the tests. All that pops up really to us is to say there is a problem in this area to address, so we will go in and look at it and write to the management of that company as to the method they are using to address that problem.

Mr. Bradley: In the facts and figures they have provided, there was an indication in this column called "other income." It appears that

Co-operative was receiving a return of, I think it said 16 per cent or better on its investments. Would you not have anticipated that if they were receiving that kind of return on their investment these were higher risk investments than perhaps would be healthy for the company?

Mr. Thompson: No, not necessarily in relation to what the other institutions were doing. If you are looking at a portfolio of investments, basically you are investing in accordance with the shopping list that is provided by the various acts and which is very similar. If you are looking at a stock portfolio, they have to be of a certain quality that have paid dividends for five years, et cetera, and there is a market value that you can determine on that which is available by consultation with the Toronto Stock Exchange. It is the same with bonds. There is a quality of the investment you have there. When you get into the area of real estate or mortgages, the file of the company should have with it an evaluation of that property. It should have a lawyer's opinion that good title has transpired to the acquisition.

Mr. Bradley: That was, of course, the criticism that was levelled, that these were warning signs. From your explanation, you are indicating that just that figure alone of 16 per cent return does not necessarily have to be a warning sign.

Mr. Thompson: No. I think you have to look at the whole investment portfolio because the return that is filed with us by any financial institution is categorized into common shares, bonds, et cetera, and is broken down into, I think, about 10 or 11 categories. It is a cumulative total of that. They may be very shrewd bond traders or something like that. You can summarize it from that.

Mr. Bradley: How is my time, Mr. Chairman?

Mr. Chairman: About a minute at most.

Mr. Bradley: In the sale that involves Delta and Co-operative, does that require the approval of the ministry and what fact did you take into consideration when you were allowing this takeover?

Mr. Thompson: No, it required absolutely no approval. Co-operative Health Services was formed in 1969 by an amalgamation of some 22 county prepaid hospital plans that were, in effect, taken over under the OHIP arrangement, and they amalgamated into Co-operative Health Services of Ontario. Delta Dental was incorporated some two years later and there were two separate corporations.

The head of Delta Dental was a dentist. It was based upon—and I do not believe there is any tie-in—a Delta Dental plan in the United States. There are still Delta Dental plans in the United States. It was basically run from the point of view that its chief executive officer was a dentist who was operating it all the way through its piece until it was taken over by CHSO. CHSO came into the picture by providing administrative services for Delta Dental.

When Delta Dental had its licence removed by us, CHSO, as a registrant under the prepaid hospital plan, took over the business of Delta Dental and assumed its liabilities. In effect, it really took over the business that it had on its books, with the liabilities, for something like \$1. I think it was \$1 plus an assumption of liabilities.

Mr. Chairman: Mr. Bradley, you are out of time. May I go to Mr. Miller?

Hon. Mr. Walker: Just a moment. I do not think we should be taking this. You have to realize that we have been waiting for some time so that Mr. Thompson could have a chance to answer any of the questions you might have, Mr. Bradley, on Astra and Re-Mor and you are choosing not to raise any with him. This is the only time you will have.

Mr. Bradley: Not within the time frame. I wish to spend an hour on that. If you want to provide an hour for that tomorrow, that is fine. I will do that. Give me an hour tomorrow and I will do it.

Hon. Mr. Walker: That is up to the committee to make its decision what it wants to do. I did not divide the time. All I am saying is that you do not want to raise any questions about it and we have been waiting for them.

Mr. Bradley: No. I am prepared to do it if you give me an hour tomorrow. If the committee gives an extension, tomorrow, of an hour, I will be happy to do it.

Hon. Mr. Walker: We have been hearing for six months that you want to raise questions.

Mr. Chairman: Mr. Bradley and Mr. Minister, I think you are both out of order.

Mr. G. I. Miller: Mr. Chairman, I think the minister received a letter from the United Co-operatives of Ontario dated September 30, 1981. I read the first paragraph, bringing to the attention of the minister the takeover bid that is being attempted now as far as United Co-operative is concerned. I think you are aware of the fact that the co-operative was established in about 1920 and is probably one of the co-

operatives that gives the best service of any co-operative in Ontario. We did have a chance to meet with the Minister of Agriculture and Food (Mr. Henderson) on Tuesday, along with two representatives from your ministry.

5:30 p.m.

Hon. Mr. Walker: Yes.

Mr. G. I. Miller: I just wonder what progress is being made in regard to the request that the co-operative had made in order to assist the problem.

Hon. Mr. Walker: My understanding was that everybody left the meeting with one mind, that all the participants in that meeting on Tuesday went away with the intention that the Minister of Agriculture and Food was going to take some direct action that would accommodate the request. I understand there was no dispute or no dissatisfaction on the part of any of the people who attended the meeting. Am I not correct on that?

Mr. G. I. Miller: Yes. I just wanted to make sure it was brought to your attention.

Hon. Mr. Walker: Yes.

Mr. G. I. Miller: I realize the Minister of Agriculture and Food is perhaps not in today, but I think it is something that requires immediate action. I suppose I am here today to move forward in that direction, to see what is being accomplished.

Hon. Mr. Walker: I think it takes an amendment to an act, and I know that the drafting alone would take more than a few hours to do. My suspicion is that something will occur before long. All I can say is my understanding was that everybody was in total agreement when they left the meeting and there is no reason to believe at this time that there has been any change in that position. I am comforted by the decision taken and I think everybody is happy with it.

Mr. Chairman: Thank you, Mr. Miller, that was very brief. Mr. Swart, would you like to lead off with Rembrandt?

Mr. Swart: I would like to lead off. I assume that—

Mr. Chairman: Excuse me, I am sorry for interrupting you. I take it there are no other comments with regard to items 3, 4 and 5. Shall vote 1502, item 3, carry?

Mr. Bradley: Mr. Chairman, before you do that, is the committee prepared to entertain a

motion which would give us a reallocation of time so we would have another hour on this particular vote?

Mr. Andrewes: We have already got a half hour.

Mr. Mitchell: Mr. Chairman, the motion that was originally tabled by Mr. Bradley was, for the most part, accepted by this committee. I acknowledge that there was, I believe, a reduction of one hour in the time allocated for this, but we have a great number of votes to go through yet. I am somewhat loath, for my part, to extend the time if we are to be able to get through every vote.

Mr. Swart: Mr. Chairman, I supported the original seven hours and I would be in favour of allocating another hour to financial institutions on the Re-Mor issue, particularly when the minister has accused the member for St. Catharines of not wanting to ask questions on this. There are lots of questions I want to ask. The member for St. Catharines can speak for himself very well, but I suspect he is concerned about the frustration of having just 10 minutes.

You cannot develop any theme in 10 minutes—all of us here know that—on an issue as complex as Re-Mor. You cannot get into it in 10 minutes. Therefore, I think we should have the other hour, even if we have to take it from some other place.

Mr. Chairman: Mr. Swart, no. I am going to recall Mr. Bradley's statement of approximately a week ago that nothing gets on this floor without a motion. Therefore, Mr. Bradley, we have a motion in front of us that was passed, that the committee attempt to work within a certain time frame. If you wish to make a motion, I say we then get at it and not discuss anything further until we have a motion on the floor.

Mr. Bradley: Do you have the time allocation in front of you?

Mr. Chairman: Yes. Why are you getting my attention, Mr. MacQuarrie?

Mr. MacQuarrie: I certainly want to get the situation clarified.

Mr. Chairman: No. We do not clarify anything until there is a motion on the floor.

Mr. MacQuarrie: I can raise it as a point of order, so-called.

Mr. Chairman: Yes, if you have a legitimate point of order.

Mr. MacQuarrie: Am I correct in assuming that you have allocated another half hour to the discussion on this vote?

Mr. Chairman: Yes.

Mr. MacQuarrie: Over and above the six hours originally allotted?

Mr. Chairman: Yes.

Mr. MacQuarrie: Without a vote?

Mr. Chairman: Yes, and the chair took the liberty of trying to get Mr. Swart part of the time that it was agreed he would get. There was a consensus.

Mr. MacQuarrie: I shall vote for it. I did not object at the time, Mr. Chairman, nor do I object now. So the six hours have become six-and-a-half.

Mr. Chairman: Your point of order is not much of a point of order.

Mr. Williams: We're setting the record straight.

Mr. Bradley: Mr. Chairman, I move that the procedural agreement, guideline, timetable—that is a good word—be modified in such a manner as to add an additional one hour to the commercial standards section, and that 10 minutes be subtracted from rent review, liquor licence, technical standards, public entertainment standards, property rights and registrar general.

Mr. Mitchell: How many minutes is that subtracted?

Mr. Bradley: Ten minutes be subtracted from each of those.

Mr. Mitchell: I did not get the count.

Mr. Chairman: Ten times six equals 60 minutes.

Mr. Mitchell: I did not hear the number right.

Mr. Andrewes: Would Mr. Bradley be prepared to add to his motion that the first 30 minutes of that hour be taken up by Rembrandt and the brief question I have and that the balance of the time be appropriated to the matters that he wishes to discuss?

Mr. Chairman: Mr. Williams asked to speak to this next.

Mr. Williams: I am having some difficulty with this situation, bearing in mind that it was Mr. Bradley who was so insistent at the outset of these estimates we should have time allocations so we would know ahead of time where we were going on this matter and how much time we could allocate fairly amongst ourselves for discussion of topics of particular interest.

At that time I made the point that I felt we

should not pin ourselves down to time frames and that we should exercise judgement and move along from one set of the estimates to another. That particular suggestion was voted down and felt to be inappropriate.

In effect, what we are doing now is the very thing I suggested probably would come to pass, namely, that we would find ourselves not being able to live within these time constraints. It is ironical that it is Mr. Bradley who is making the motion to change the ground rules that he was so insistent on setting in the first instance.

Mr. Bradley: You were the people who cut one hour from this section.

Mr. Williams: It is most interesting.

Mr. Bradley: Mr. Chairman—

Mr. Chairman: Mr. Bradley, Mr. Williams has the floor.

Mr. Williams: What is implied in that statement does not even deserve a response.

Mr. Chairman, the fact of the matter is that you have been more than lenient in staying approximately within the time frames agreed to by all members of the committee. The first vote went 49 minutes over; that is almost an hour there. This particular vote has already been extended another half hour by agreement.

It seems to me that one of the difficulties we are having is that if Mr. Bradley is carrying the day on behalf of his caucus in these estimates, he should not have allowed Mr. Reid to come in here and spend the first half hour today on matters that might be important, but nevertheless encroached upon his time. Mr. Miller has come in and asked to be heard, which he has a right to do, but still it is noted they are both members of your caucus, Mr. Bradley. They know very well how interested you are in this matter and that there are time constraints.

Notwithstanding that, they have come in and taken time away from you, and now you are trying to put the blame back on the rest of the members of the committee, which I think is entirely unfair. I think, Mr. Chairman, under the circumstances, the motion is inappropriate and that we should stick by the agreement the members of the committee came to.

5:40 p.m.

Mr. Chairman: Mr. MacQuarrie is next. Keep an eye on the clock too, please.

Mr. MacQuarrie: It has already been agreed that we extend the discussion on this vote for an

extra half hour to be spent mainly on Rembrandt. If it is to be extended a further half hour as proposed—

Mr. Williams: It was agreed to already.

Mr. MacQuarrie: I mean the extra half hour that Mr. Bradley proposes. Mr. Chairman, there are those of us that you have quite arbitrarily said will not have an opportunity to speak on these financial institutions, and I hope we will have that chance.

Hon. Mr. Walker: You have been very generous to the opposition.

Mr. MacQuarrie: I have no objection to that. In the event that this committee sees fit to extend the time allotted to this particular item, I hope we will be given an opportunity to raise questions on the matters involved and not have the entire half hour pre-empted by Mr. Bradley.

Mr. Mitchell: I just want to get things squared away following Mr. MacQuarrie's comments. This committee, with the indulgence of this side, has agreed to 30 minutes tomorrow for Rembrandt because our time is up for today.

Mr. Andrewes: Twenty and 10.

Mr. Mitchell: Twenty and 10, I am sorry.

I know there are some other questions, and I am prepared to move that the half hour be extended to one hour so that the questions on Rembrandt and the other questions can be dealt with. That will put it back to the original seven hours.

Mr. Chairman: Mr. Mitchell moves that an hour be allocated to vote 1502 tomorrow, half of it dealing with the questions on Rembrandt that we have already agreed to handle tomorrow, and the balance for other questions from members.

Mr. Andrewes cannot be forgotten. He has 10 minutes.

Mr. Mitchell: I am not excluding him by the motion, not at all.

Mr. Williams: Thirty minutes will be allowed for Rembrandt, 10 minutes for each caucus.

Mr. Chairman: Yes, for Mr. Swart, Mr. Bradley and Mr. Williams.

Mr. Williams: That is half an hour, and you are saying that the other half hour be devoted to 10 minutes for Mr. Andrewes and 20 minutes for—

Mr. Mitchell: For Mr. Bradley.

Mr. Williams: In the first half hour? Then that cuts our time down 20 minutes.

Mr. Mitchell: My motion really is very explicit, that the time allocated to financial institutions, which has now run out, be extended for one additional hour. Let's argue tomorrow.

Mr. Chairman: No, that cannot be the amendment because it has already been agreed that we have 40 minutes under business practices. Your motion of extension will be for only 20 minutes.

Mr. Mitchell: All right.

Mr. Chairman: The extension for financial institutions will be 20 minutes.

Mr. Mitchell: Yes.

Mr. Chairman: That is an amendment to Mr. Bradley's motion for an extension of one hour. There being no further discussion, may we have the vote.

Mr. MacQuarrie: Let's get the amendment straight. It adds up to a total of an hour, as I understand it.

Mr. Chairman: Yes.

Mr. MacQuarrie: Forty minutes already allotted, 10 minutes to Williams, 10 minutes to Swart, 10 minutes to Andrewes and 10 minutes to Bradley. Is that it?

Mr. Philip: What about five minutes to me?

Mr. Andrewes: You are too late.

Mr. Chairman: May I reiterate. Mr. Bradley made a motion that item 3, financial institutions, be extended for one hour and that we deduct 10 minutes from each of technical standards and following, down to the end.

The amendment by Mr. Mitchell, in essence, says that we extend 20 minutes on financial institutions. He says nothing about deducting anything from those other matters.

Mr. Mitchell: No, I have left them the same. I am saying we will set a total of one hour to finish off this area tomorrow.

Mr. Gordon: Mr. Chairman, how does that amendment fit?

Mr. Chairman: When you say "this area," are you talking about this vote? If you say "this vote"—

Mr. Gordon: I do not see how that fits.

Mr. Chairman: We have not dealt with item 7. You are agreeing with Mr. Bradley's motion.

Mr. Gordon: Mr. Chairman, would you run that by me again, please?

Mr. Chairman: We have already agreed on 40 minutes of that hour, so we have 20 minutes left to deal with all other matters.

Mr. Philip: Mr. Simpson wants to boast on the record about a problem that he solved on behalf of my constituents and I want to let him do it. When do I get five minutes for the Housing and Urban Development Association of Canada home warranty program?

Mr. Chairman: I believe you are agreeing with Mr. Bradley. Mr. Bradley, you said you wanted 60 minutes under financial institutions.

Mr. Bradley: Call it commercial standards and I think that will solve it.

Mr. Chairman: Right. Thank you.

Mr. Gordon: Mr. Chairman, I do not understand the amendment. I want it clearly stated what it is.

Mr. Chairman: Mr. Mitchell has withdrawn his amendment. Am I correct?

Mr. Mitchell: I was not aware that I had, Mr. Chairman.

Mr. Chairman: Yes, because you are agreeing with Mr. Bradley. We had agreed we would sit an additional half hour tomorrow since our time has elapsed for this particular area. We agreed we would allow 10 minutes for Mr. Swart, Mr.

Bradley and Mr. Williams on Rembrandt and 10 minutes for Mr. Andrewes who had indicated a question. I am saying we will extend that 40 minutes to an hour, and that is all.

Mr. Mitchell: Which Mr. Bradley agreed to.

Clerk of the Committee: And deduct the 10 minutes?

Mr. Mitchell: I made no mention of deducting time in my amendment.

Mr. Gordon: Could you just run the amendment by me again? I want to know what they are talking about.

Interjections.

Mr. Chairman: Following routine proceedings tomorrow, we will take up the issue.

Hon. Mr. Walker: Mr. Chairman, I do not want Mr. Bradley not to come here with his questions. I want the questions on Astra and Re-Mor. I do not want him to say we are denying him those.

Interjections.

The committee adjourned at 5:49 p.m.

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Ontario.

LEGISLATIVE ASSEMBLY

No. J-15

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

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DEC 11 1981

First Session, Thirty-Second Parliament

Friday, November 6, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, November 6, 1981

The committee met at 12:20 p.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: Gentlemen, we appear to have a quorum.

On vote 1502, commercial standards program; item 3, financial institutions:

Mr. Chairman: When we left off yesterday we were on vote 1502, but had not carried it. We were in the midst of a series of motions and an attempted amendment of Mr. Bradley's motion by Mr. Mitchell. I believe it was agreed that we would have 10 minutes each for Messrs. Bradley, Swart and Williams on the matter of Rembrandt. Mr. Andrewes was going to take 10 minutes on another matter under financial institutions, but he has advised me that he has waived that.

Then Mr. Bradley wanted a further hour under Re-Mor, and I think we were about at the point where he was to be allowed 20 minutes. Can we go ahead on the basis that it is 10, 10, 10 and 20?

I understand Mr. Cunningham has another piece of meat for the stew.

Mr. Cunningham: I do not know if it is more meat for the stew, sir. I am just wondering if I may ask, at your direction, some general questions on insurance under item 3, financial institutions. They do not pertain to Re-Mor.

Mr. Chairman: Mr. Bradley has kindly offered to allot to that, five minutes out of his 10 minutes on Rembrandt. So, are we away?

Mr. Bradley: I still have 20 minutes on Astra/Re-Mor.

Mr. Chairman: Yes, under business practices.

Mr. Bradley: I think it is under financial institutions.

Mr. Chairman: Fine, then we will carry on with item 3.

Mr. MacQuarrie: Are you going to allot any time here?

Mr. Chairman: You did not wish to speak to anything on item 3. We are on item 3.

Mr. MacQuarrie: It was mentioned the other day. Both Mr. Gordon and I wanted some questions on that.

Mr. Chairman: I understand Mr. Gordon was trying to clarify what we had agreed to.

Mr. Gordon: I thought you had a motion to do with this. Are you going to move a motion, or are you going to take this as a matter of faith?

Mr. Chairman: Mr. Bradley, would you put this in the form of a motion, just for item 3?

Mr. Bradley moves that the members speak for 10, 10, five, five and 20 minutes.

Motion agreed to.

Mr. Chairman: Can we start off with Mr. Cunningham since his subject is not related to the others? Five minutes, if you would, please.

Mr. Cunningham: I thought it was 10 minutes.

Mr. Chairman: No, you have five minutes of Mr. Bradley's time.

Mr. Cunningham: These are good questions, Mr. Chairman. I would like to know from the superintendent of insurance how many insurance companies are reporting either to him or to the minister on a monthly basis. Can you answer that?

Mr. Thompson: On a monthly basis?

Mr. Cunningham: Right.

Mr. Thompson: Offhand I do not know of any insurance companies that are on a monthly reporting basis at this time.

Mr. Cunningham: How many would be reporting to you on an irregular basis, on a basis that would be contrary to the normal provisions of the act?

Mr. Thompson: You know there is the annual report. I am not aware of any that are reporting on other than an annual basis.

Mr. Cunningham: What are you doing with a company like Pitts that was reported in the Globe and Mail of October 29 to have some difficulties? What are you doing on that?

Mr. Thompson: Of course, that is not a company we examine. That is a federal corporation.

Mr. Cunningham: Are you satisfied with the current solvency of most of the insurance companies operating under your act?

Mr. Thompson: I want to be very specific on this because all financial institutions are under

a strain at this time. The strain is caused by the rapid escalation of interest rates which affects their assets, particularly long-term bond portfolios, which in a lot of cases require an infusion of additional capital. Going into the capital market at this time is a very difficult thing to do. There is a lot of strain on the system.

But management, generally, is doing quite well in the area of meeting the current high interest rates. There has been some recent break in it, which is certainly helping the institutions a great deal.

Mr. Cunningham: How many companies are in receivership right now that you know of?

Mr. Thompson: Receivership?

Mr. Cunningham: Voluntary receivership.

Mr. Thompson: There are no Ontario ones, except Co-op, which is a prepaid—

Mr. Cunningham: Right.

Mr. Thompson: As regards actual receivership—

Mr. Cunningham: Or voluntary receivership.

Mr. Thompson: I am aware of two federal companies that—

Mr. Cunningham: Pitts is one; what is the other?

Mr. Thompson: Security Mutual Casualty Company, which is a Chicago, Illinois, company.

Mr. Cunningham: So it makes a federal return.

Mr. Thompson: Yes. I am hesitant because I am just not sure of the exact status of that. There is a motion before the Illinois courts in that respect.

Mr. Cunningham: How would you characterize the financial stability, say, of the major writers of automobile insurance?

Mr. Thompson: I think a number of them have suffered losses in that their pricing is definitely too low. Their pricing in the last two years in a competitive marketplace has not met the level of natural inflation that I think all consumers have been faced with in other products. There are a number of price increases coming in an attempt to rectify that situation. As I said before, they are definitely under pressure to do this.

Mr. Cunningham: Are they all meeting their solvency requirements?

Mr. Thompson: By and large, yes, but I want to be very specific on that. We have early warning signs and signals to indicate that there

has to be remedial action. For a number of them the early warning signals indicate that remedial action is necessary by way of increasing their premiums, placing additional capital in the company to build it up.

Mr. Cunningham: Murray, I was advised this morning that 39 companies are close to receivership, including one of the largest writers of automobile insurance in Ontario, which is an Ontario chartered company. Is that an unfair statement?

Hon. Mr. Walker: Murray, do you want to answer that question?

Mr. Thompson: Yes, I would like to answer it because to me it seems to be the statement of an alarmist. There definitely is not an Ontario company in that precarious state. There are certain trends in the insurance industry, and my concern now is in the future. I think many of these problems will be rectified by increases in premiums. Many of them will readjust.

The insurance companies have one thing the other financial institutions in the province really cannot resort to, and that is, cutting off the contracts they write, the amount of business they can write. They can, in other words, turn the tap off. Every time they write a contract they assume a liability. What I am concerned about is that through this period of adjustment we will come into another period, which will be a lack of capacity, an inability of the public to buy insurance.

Mr. Cunningham: That was my concern.

Mr. Chairman: Your time has expired.

Mr. Cunningham: I know the agreement. It is a shame that we cannot devote more time to this because this is going to be a very major problem to the people of Ontario.

Mr. Chairman: Mr. Cunningham, we are way over time, and with respect, you really should have been here last time to try to get this in.

Mr. Cunningham: I just found out today. I thought possibly the minister would be making a statement on this. It certainly would be in the public interest because you are going to see in the next five to six months that while insurance is compulsory in Ontario, people will not be able to get it.

Mr. Chairman: Now we are on the 20 minutes of Mr. Bradley on Astra/Re-Mor. Then, as I understand it, Rembrandt is under item 6, business practices, right?

Mr. Swart: Yes, I would think that it is the logical place for it to be. I have no objection to that.

12:30 p.m.

Mr. Chairman: I would certainly like to carry the last of item 3 today. Mr. Bradley.

Mr. Bradley: Yes, I would like to speak with Mr. Thompson, Mr. Terhune and Mr. Roach, please, if they could come to the microphone.

Hon. Mr. Walker: You ask the question and I will designate the person to answer. Mr. Terhune and Mr. Roach are here. We are not going to go through a round robin on this.

Mr. Swart: Designate who is to answer?

Hon. Mr. Walker: Sure, the estimates are my estimates, but I will certainly designate them. Go ahead and ask the questions and we will see how far we can get on it. We are into this extended period of time because we are trying to be as co-operative as possible on this.

Mr. Bradley: This is to Mr. Thompson then. Mr. Thompson, once Astra had received its federal charter and its provincial registration, I believe it would be safe to say that the financial institutions division first became involved with the Astra problem, let us say, some time in May 1978. Would that be correct?

Hon. Mr. Walker: Would you put the question again?

Mr. Bradley: Yes. Would it be safe to say that the financial institutions division first became involved with the Astra problem sometime in May 1978?

Hon. Mr. Walker: Mr. Thompson tells me he does not know the exact time on it. I suppose we would have to ask when the first letter or the first matter arose on those two things.

Mr. Bradley: I suppose from the past testimony we have heard it would be a safe assumption to make that May 1978 was the first time that the financial institutions division became involved with the Astra problem.

Hon. Mr. Walker: I cannot answer the question and Mr. Thompson does not have all his files here that would relate directly to that. Presumably someone has asked that question at previous hearings and he has given that answer. At the moment he does not have the files here to refresh his memory.

Mr. Bradley: Now, if I may, I think I could summarize the problems as follows, Mr. Thompson. First of all, there was the existence of an agency fund which did not meet the require-

ments of the Loan and Trust Corporations Act; and, second, a share distribution which appeared to contravene the Securities Act. Now part and parcel of the first problem was the nature of mortgage investments being made by that agency fund, in particular a very large investment in a Spanish condominium.

Would this be a fair and succinct summary of the problem?

Hon. Mr. Walker: There is a lot more to the whole problem than that.

Mr. Bradley: I recognize that, but would you not say that highlights the problem?

Hon. Mr. Walker: It may be accurate on what you have said, I cannot say that. But there is probably a lot more than what you are saying.

Mr. Thompson: In the overall scheme of things, the Loan and Trust Corporations Act does not deal with share holdings. That point is a question for the securities commission basically. I can say in the overall scheme of things that—

Mr. Bradley: I think we understand that aspect of it, yes. We are talking about the regulators as a whole.

Mr. Thompson: In the case of a loan and trust corporation that is operating in Ontario, the concern of our office under the legislation would be with respect to a full fund or the type of trust being operated, yes.

Mr. Bradley: Now, the share distribution problem was taken up by the Ontario Securities Commission, we know that, but I think it would be safe to say that the agency fund took up a fair bit of your time and, no doubt, taxed your nerves as well. In particular you were quite actively engaged in solving this problem from May until December of 1978 when an agreement was reached with Mr. Montemurro and two of his associates concerning the Spanish deal, is that correct?

Mr. Thompson: Yes; in conjunction with others, but yes, that was so.

Mr. Bradley: Naturally you continued to keep an eye on the agency fund, even after December 1978, did you not?

Hon. Mr. Walker: I am consulting with a lawyer from the Attorney General's office, Isabella Fox, and she is somewhat concerned about some of the questions that are being posed as they relate to the trials in which she is directly involved. You might want to ask her view in respect of some of the questions.

The one thing we want to be very careful

about is to avoid any possible jeopardization of the criminal charges and indeed, to an important extent, the civil matters that are before the courts. You know that so—

Mr. Bradley: Similar circumstances existed during the January inquiry, Mr. Minister, according to the Attorney General (Mr. McMurtry), and yet the Attorney General's crown law officers, who sat in on the committee, did not object at that time to those questions being put.

Hon. Mr. Walker: If the questions were put back then, why are you now asking them?

Mr. Bradley: Yesterday in essence you said, "Come on, Mr. Bradley, ask your questions." Now Mr. Bradley is asking his questions and I either get answers, which are perhaps understandable, that there is not the recollection or that the Attorney General's office says, "Do not ask the questions." I am looking at it in the context of 1981, at the present time, substantially later than the hearings, and things have transpired since then.

You really put it to me yesterday, "Come on, Mr. Bradley, ask your questions." Mr. Bradley is asking his questions and we are seeing the results.

Hon. Mr. Walker: I just want to be sure that you have not already asked the questions and they have already been answered.

Mr. Bradley: It is not your business.

Hon. Mr. Walker: It is interesting to know that you are now asking the same questions you asked before and presumably the answers are there.

Mr. Bradley: They are not precisely the same questions at all. You are just using diversionary tactics. Let us get to the questions. Do you want to answer the questions or do you not want to answer the questions?

Mr. Philip: The minister now wants to tell us what questions we ask.

Mr. Bradley: I told you this was going to happen. I called his bluff.

Mr. Thompson: Let me say on that, the agency fund was something very different than a pool fund. It was an entirely different then known vehicle; a pool fund under the legislation, which is a trust, commingles all the assets of investors within this and provides to the investors of that trust a unit, on which a value is struck. The risk of investment in that pool fund is the investor's.

The type of fund here was one that indicated a note was given of which, as you can appreci-

ate, when the investment risk is with the investor, the value is dependent upon the valuation of all the assets so the capital value of that fluctuates as well as the interest earned on it. In the agency fund, however, there was a note given for a stated capital value which did not contemplate any change in that valuation.

12:40 p.m.

In other words, the question was: Was that a pool fund or was that a direct obligation of the company in the same manner as if it was a guaranteed investment certificate that you normally buy from any trust company which says, "I promise to pay you \$10,000 plus a stated rate of interest on one to five years"?

Mr. Bradley: I am going to skip ahead a little bit in the interests of time, Mr. Thompson. I will ask you this question if I may: Were you advised by the Ontario Securities Commission in May 1979 that they had laid charges under the Securities Act against Astra, Montemurro and Pat Luciani in connection with the agency fund, and against Luciani and three Astra branch managers in connection with the share distribution? That is May 1979. Were you advised by the Ontario Securities Commission of that?

Mr. Thompson: I could not pin down the date; whether May 1979 was the exact date I do not know.

Mr. Bradley: Very close to that. Were you advised of those charges?

Mr. Thompson: I honestly do not know, I am sorry.

Mr. Bradley: I assume then that you probably—

Mr. Thompson: I was aware that the securities commission was doing—let us call it their thing.

Mr. Bradley: Would knowledge of these charges at that time not have affected how you dealt with Astra and Mr. Montemurro? If they had told you that, would the knowledge of those charges having been laid not have affected how you dealt with Astra and Mr. Montemurro?

Mr. Thompson: Yes, if I had something directly to do with it, but I think at that time it was being monitored by the federal government.

Mr. Bradley: I am going to skip on because I

am looking at the clock. I want to ask you a few questions on a letter dated July 23, 1979, from a lawyer named Robert McGlynn to Mr. Roach.

Hon. Mr. Walker: Do you have a copy of the letter?

Mr. Bradley: Yes, I have.

Hon. Mr. Walker: Can you provide a copy to all of us?

Mr. Bradley: Yes.

Hon. Mr. Walker: Is this that fellow from Hamilton, the one who withdrew his comments?

Mr. Bradley: Perhaps if Mr. Roach could come to the microphone he might be able to assist us.

Hon. Mr. Walker: Mr. Roach is taking the microphone now. Give him a second to refresh his memory on the letter, if you do not mind. It is a four-page letter.

Mr. Bradley: I am sure he recalls it very well. While Mr. Roach is reviewing the letter, I should mention to the chairman that it is a letter to "The Department of Consumer and Commercial Relations," and specifically to Mr. Roach. It is from this lawyer who says, "You may recall that I spoke with you on July 18 regarding certain difficulties my clients, the Ramseys, are having with Astra Trust Company."

In the letter he includes a couple of other statements.

"During that conversation you asked me to write to you setting out the details of the transaction in which my clients were involved with Astra."

In the letter he talks about some of the problems, as members of the House will recall.

He says the first problem was: "The nature of the security given by the mortgagor with respect to the relationship between the total amount of these mortgages and other mortgages against the respective properties as compared to their total market value."

Second: "The extent of Re-Mor's holdings and assets, et cetera, in respect to the value of the guarantee contained in each of the three agreements. Obviously, the validity of the security given by the guarantee is a function of the strength of Re-Mor's covenant."

Third: "The Ramseys had been told that their agreements were to cover a three-year term while in fact the agreements that they received were for a five-year term."

Fourth: "Information from Re-Mor as to the relationship between Re-Mor and Astra Trust,

specifically I wanted to know whether Re-Mor was a wholly owned subsidiary of Astra Trust or whether Astra Trust was merely acting as an agent for Re-Mor in obtaining funds."

Fifth: "Were any of these mortgages guaranteed in any way by MICC or other similar insurance."

He went on to say: "The Ramseys were first attracted to Astra Trust by its newspaper advertisements which promised higher than normal interest rates on savings accounts. In mid-October 1978 Mr. Ramsey approached Astra Trust Company regarding interest rates on what he thought were guaranteed income certificates. What in fact the Ramseys received were not guaranteed income certificates but something called an Astra Trust Company personal investment account."

He concludes in the letter: "Apparently, Astra Trust Company and/or Re-Mor Investment Management have merely placed the funds without regard either to the expressed reservation of the Ramseys nor with the undertaking given by their employee, Benson.

"The Ramseys now find themselves with an \$80,000 investment which substantially represents their life savings with a lender and borrower, of whom they know nothing, for security which may or may not be adequate, and supported by the guarantee of a company which may be totally inadequate to cover its obligations in the event of default, without any opportunity to assess their investment or to obtain independent advice as to the merit of the investment."

I guess you recall this letter. Did you discuss this letter, Mr. Roach, with anyone?

Mr. Williams: On a point of order, just before Mr. Roach answers the question: The copy of the letter I received, Mr. Chairman and Mr. Minister, is an unsigned copy. Is Mr. Roach satisfied this is a true copy of the original letter that was sent to him?

Mr. Roach: It is five pages and I could not be satisfied—

Mr. Williams: I want to make sure. This letter alleges a lot of things, but it is not over anyone's signature.

Hon. Mr. Walker: All I can say to that, Mr. Williams, is that this was a letter sent to me in the House, a photocopy of which I have, which was unsigned and produced by the Leader of the Opposition (Mr. Smith) who sent it over.

I reported to him that the complaints were withdrawn, that the letter was withdrawn. I

produced ultimately a memorandum in the House that said: "McGlynn's letter of July 23 and enclosure was received by me today. Shortly thereafter I took a phone call from Mr. McGlynn who said that he had just had a meeting with Montemurro of Astra, that he had promised Montemurro to call this office, and that the meeting had been called by Montemurro to discuss Ramsey's affairs. The meeting had taken place in McGlynn's office."

I am skipping over my remarks. "McGlynn asked this office not"—n-o-t—"to act on his complaint"—

Mr. Bradley: That is fine, Mr. Minister. We know you said that in the House and we know you are defending the position, but really—

Hon. Mr. Walker: —"but to keep the file open until he sends written confirmation." He sent that dated July 31, saying he got his money back.

Mr. Chairman: I do not follow your point of order, Mr. Williams.

Mr. Williams: Mr. Roach is being asked to answer certain statements that have been made, allegedly under the name of a law firm in Hamilton, dealing with this Astra Trust Company matter. I am pointing out there is no signature to the letter to indicate whether it is a letter issued on the authority of that law firm and whether it mirrors an original letter that was signed or not.

I want to make sure he is answering to the same letter I presume he received under signature at some earlier time, on or about July 23, 1979.

Mr. Chairman: I am afraid, Mr. Williams, I do not see that as an exact point of order.

Mr. Williams: I do.

Mr. Chairman: If Mr. Roach wishes to identify the letter by its date and the legal firm from which it came—

Mr. Williams: That is exactly what I am asking him to do, to satisfy this committee that it is the one and the same letter that he had received earlier, on which he had taken action or no action as the case may be.

Mr. Chairman: Mr. Roach, is that—

Mr. Roach: I am not prepared to say this is an exact copy. I certainly recall a letter came in. This looks like that letter. There is no signature. I cannot say whether the reproducing machine did not pick up the signature or not; I do not know.

Mr. Williams: Are you prepared to answer questions based on not being certain on that point? Does it have any relevancy as far as the question is concerned?

Hon. Mr. Walker: I am prepared to allow him to answer on the basis of the copy. I am satisfied that what has been produced would not have been altered by Dr. Smith or Mr. Bradley. I do not mean altered, but that it would not be different from the original.

Mr. Williams: As long as Mr. Roach is satisfied as well.

Hon. Mr. Walker: I am prepared to accept that letter.

Mr. Chairman: Mr. Roach, would you now answer Mr. Bradley's question?

12:50 p.m.

Mr. Bradley: Which was, with whom did you discuss this letter? Mr. Thompson?

Mr. Roach: To the best of my knowledge the letter was not handled by myself but by an assistant of mine. I presume I was not there the day of receipt.

Mr. Bradley: To your knowledge, was this letter discussed with Mr. Thompson?

Mr. Roach: I do not know. I did not discuss it with Mr. Thompson directly.

Mr. Bradley: Perhaps if I could have your permission, Mr. Minister, to ask Mr. Thompson, did anyone discuss this letter with you?

Mr. Thompson: No, I am not aware of that at all.

Hon. Mr. Walker: You are talking about at the time?

Mr. Thompson: Of course.

Hon. Mr. Walker: Of course, you will appreciate I discussed it with Mr. Thompson when your leader brought this matter up a few months ago.

Mr. Priscus was the person who works for Mr. Roach and he was the one who made the memo to file, noting that Mr. McGlynn had withdrawn his complaint.

Mr. Bradley: I know you are emphasizing that, but this was a trigger at the time. He may have withdrawn his complaint later, but this was a trigger at the time that I think should have caused some red flashing lights.

Mr. Swart: Could I have a supplementary? Apart from anyone discussing the letter with you, did you see the letter at the time?

Mr. Thompson: I do not have any recollection of seeing that letter. The names in there do not mean anything—

Hon. Mr. Walker: You will realize they get 2,000 letters like this a year, not necessarily on loan and trust, but 2,000 letters a year where lawyers often will send them basically to back up their case and then withdraw them.

Mr. Swart: This one is kind of significant—

Hon. Mr. Walker: Yes, but withdrawn none the less.

Mr. Bradley: Did Mr. Terhune see this letter?

Hon. Mr. Walker: Can Mr. Terhune come forward here and lean over a microphone? I would like him to answer that question.

Mr. Terhune: Would you mind repeating your question?

Mr. Bradley: You see this letter I have referred to, to Mr. Roach from Robert McGlynn, dated July 23, 1979. Did you see that letter?

Mr. Terhune: I am not positive that I did. It could be quite possible.

Hon. Mr. Walker: Mr. Thompson makes a good point. You realize that no one had heard of Re-Mor at that time. Remember that. That is the context against which you asked that question.

Mr. Thompson: The fact there was a complaint against the company and that it involved perhaps another corporation does not necessarily indicate anything itself, because a trust company can act fully within its capacity as a mortgage broker, or can act on behalf of a mortgage brokerage operation. The significance becomes apparent a year later, but the fact they may have been acting as a mortgage broker back to the context of the time of receipt means nothing. Most trust companies do.

Mr. Bradley: While you may not have heard about Re-Mor, you knew about the principals involved in Astra at that time. Surely there was a knowledge of Mr. Montemurro and his associates at that time.

I would say these matters are what you would consider to be serious matters and would have raised concerns about the general practice of Astra and ultimately its relationship with Re-Mor, a company you had never heard of before.

You had been concerned with Mr. Montemurro's affairs for over a year; I think that is safe to say. You were concerned with the agency fund, the share distribution, the Spanish deal. There was a court-ordered winding down of C and M.

Here comes a letter identifying numerous suspicious activities. You had absolutely no idea whether this was an isolated case or not.

You knew the history of Montemurro's regular activities and yet you chose to do nothing. How can you possibly justify that? You knew all these things were going on with Astra and C and M.

Mr. Thompson: Wait a minute.

Hon. Mr. Walker: Wait a minute. Do not take that through that way unless you are challenging Mr. Thompson's word; do not forget he said to you he did not have that letter at the time. It had not been brought to his attention and he talked to no one about it at the time. Subsequently, of course, he has talked to people about it, but what you are now doing is trying to take what he is saying and refute it. I do not think you mean a refutation of what he is saying.

Mr. Bradley: Well, who was responsible for not bringing this letter to your attention then?

Mr. Thompson: If we have a complaint and the day it is received there is a phone call not to act on it—we have literally several thousands coming in. The fact we have a complaint on something which at that time indicates nothing—no one even knew Re-Mor. If everyone in the office ran to me every day because they had a complaint and the complaint had been withdrawn, I would say to them, "Why are you coming to see me?"

Mr. Bradley: But that complaint was about a person who was involved with Astra Trust, which surely was a big issue within your ministry, not just an every-day complaint. That would be a big issue. Astra was a continuing big issue at that time with your ministry. Surely if a letter of that kind had come in, they would have had the red lights flashing.

Mr. Thompson: But the lawyer withdrew it.

Hon. Mr. Walker: In essence the lawyer said there is no complaint here. He was complaining about not getting his money. The essence of the letter from this lawyer was that people did not get what they thought they were getting, and then the reply comes back in—first of all, on the very day the letter is received, on July 29, there is a call from McGlynn, the lawyer, saying: "Withdraw it, do not do anything. Keep your file open until I write you and tell you that it has been resolved."

On July 31, 1979, a letter came in from the same lawyer saying, "Further to my letter of July 23 in connection with the investment by Sheila and Henry Ramsey with Astra Trust Company, I would confirm that Ramsey's investment with Astra Trust has been returned to them in full with interest to July 27, 1979."

The complaint was that they were not getting

their money back, that they did not get what they expected to get. Now they have their money back, who in their right mind would go further and do anything about it?

Mr. Bradley: In my view, with the history of Astra and the principals of Astra, it still should have had the red lights flashing.

Mr. Chairman: Mr. Swart, you indicated you wanted a very short comment.

Mr. Swart: I want a very short question to the minister.

Mr. Bradley: I had only one last question to ask Mr. Thompson.

Mr. Chairman: Are we down to something like two minutes each for the question and answer?

Mr. Bradley: Yes. Can either the minister or Mr. Thompson honestly recall whether this particular letter was included among the documents sent over to the screening committee during the January inquiry?

Mr. Thompson: I will categorically 100 per cent say it was there because it has a stamp on it. Every document we sent there was marked and enumerated because we wanted to check and did check to make sure everything that was sent came back. It was there and it did come back, categorically, 100 per cent.

Mr. MacQuarrie: I have a supplementary. Was the follow-up letter from that solicitor also included in the documents?

Hon. Mr. Walker: I can answer that question because the letter has the code number of 300366, which some of you who have been on that committee would realize means it was entered as evidence and stamped by the clerk, presumably during the hearings last December or last January, so it must have been entered. It also has the signature of Mr. McGlynn on it. It is an original document.

The one that came in from Dr. Smith which was produced by Mr. Bradley appears not to be an original document. Definitely my copies—all I have seen and I have seen several—have no number identifying them, so I presume this was not part of the evidence. That is not to say the original is not in one of those 48 cartons somewhere, or at least a photocopy of it, numbered and there. I have not gone back to verify that.

Mr. Swart: My question is to the minister. I think what is taking place in this committee demonstrates the uselessness of trying to carry

on an investigation in this committee when documents are not here and because of the length of time and a variety of other things. Of course, on this whole matter of the investigation into Re-Mor, since the election of a majority government we have had the issue of sub judice thrown at us.

My question to the minister is simply this, because this apparently will finish today a discussion on Re-Mor during this session: Will the minister be prepared to not object to the justice committee reconvening its investigation after the court case is finished?

Hon. Mr. Walker: I would not want to give you that assurance at the moment. I might have a different view today to what I might have three months from now.

Mr. Swart: I would doubt it. It will be no, no, no. But I had some hope you might be willing, when there was no sub judice—

Hon. Mr. Walker: It might be yes, yes, yes. I want something to be pointed out here, Mr. Chairman, before we leave, and that is there have been over seven hours now spent on this vote as it involves the matter of commercial standards. This particular matter, of course, has occupied almost every bit of the time that has been available in this portion of the vote.

While there is still some part to go on the remaining part of the vote, we have not certainly today refused, and we did not yesterday refuse, any questions raised by Mr. Bradley as it related to Re-Mor. There were some we had some consultation on and the short of it was that every single question posed by Mr. Bradley, and indeed by Mr. Swart, was answered and answered to the best of the knowledge of the individuals here.

I just wanted to make that perfectly clear, and also that there was no attempt to subvert it. We have gone extensively over what was the anticipated time. I think the members, certainly the Conservative members, have been tremendously co-operative in extending the time. In this seven and a half hours of debate the Conservatives have probably not raised more than 20 minutes' worth of considerations in it to allow both of the opposition parties ample time to raise questions. Indeed, Mr. Bradley spent three hours with Mr. Henry Knowles of the OSC alone.

I offer that as comment.

Mr. Chairman: Thank you, Mr. Minister. The time has run out.

Item 3 agreed to.

Items 4 and 5 agreed to.

Mr. Chairman: Fine, thank you, gentlemen. We will start off Thursday following routine proceedings with item 6, business practices, and

Mr. Bradley will lead off with five minutes, Mr. Swart with 10 minutes, Mr. Williams with 10 minutes.

The committee adjourned at 1:04 p.m.

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Ontario

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Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations

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First Session, Thirty-Second Parliament

Thursday, November 12, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, November 12, 1981

The committee met at 4:19 p.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

Mr. Chairman: Gentlemen, we have a quorum in place.

On vote 1502, commercial standards program; item 6, business practices:

Mr. Chairman: We are in the midst of item 6. We have 12 hours and 12 minutes left in the Ministry of Consumer and Commercial Relations estimates. Mr. Swart, I believe you were leading off for 10 minutes on Rembrandt.

Mr. Swart: Mr. Chairman, you had stated that Mr. Bradley was leading off for the first five minutes and that I would have the next 10, but I am quite prepared to lead off. Perhaps if Mr. Bradley is not here, or if Mr. Elston does not get into it, I can absorb the five minutes.

Mr. MacQuarrie: I am sure you can do it very easily.

Mr. Elston: In the interest of brevity, I will probably make a decision 10 minutes into your presentation.

Mr. Chairman: Mr. Swart, would you carry on with your 10 minutes, please.

Mr. Swart: I know that the minister and the member for Oriole (Mr. Williams) are familiar with the Rembrandt Homes issue. Some of the new members may not be. It concerns some 325 homes that were built in the Crestview part of North York in the 1971-73 period in Oriole riding. They had almost immediate and major problems because of the faulty construction of the homes. They went to the municipality to try to get some redress of the problems in 1974. Then they asked the province to intervene on their behalf to get some corrections to the homes.

There is plenty of documentation about the deplorable condition of the homes because of the type of construction. I do not think there is any argument on that. There are statements by Mayor Lastman in this respect and even by Mr. Drea, then the parliamentary assistant, who

visited those homes. All of this happened prior to the passage of the home warranty act.

The province accepted responsibility for those homes. I have here a statement by Mr. Drea, dated December 13, 1978, in which he pledged to find "a fair and equitable solution." On August 22, 1979—these dates are important: the first is 1978 and the next is 1979—Mr. Drea wrote to the home owners, through Mr. Ross McClellan, saying, "These homes will be brought up to standard just as though they were covered by the warranty program." This was a very flat commitment with no qualifications whatsoever.

I am not sure why the government committed itself at that time. It may have been because of the obvious injustice which had been suffered by those 325 home owners. It may be because the government itself did not properly apply section 7 of the act. I will not take the time to read that section, but it provides that a shoddy contractor would not be licensed under home warranty legislation.

According to Hansard of November 5, 1980, when Mr. Drea, the minister in charge, was questioned by Mrs. Campbell, the then member for—

Hon. Mr. Walker: St. George.

Mr. Swart: How can I forget that?—Mr. Drea made this comment: "A faulty decision was made, Mrs. Campbell, and it was not my decision." A faulty decision was made in licensing—that is what Mr. Drea said—"and it was not my decision." Obviously, there was another minister administering that at the time, or it may be because this was a shoddy firm.

Hon. Mr. Walker: That may have been hindsight.

Mr. Swart: It may have been hindsight, but for the purposes of my comments he made the statement that a faulty decision had been made by the minister.

Hon. Mr. Walker: It may have been faulty in retrospect, but perhaps not at the time.

Mr. Swart: I do not want to use up all my time on this, but there is a history that the Rembrandt home owners objected to this contractor being licensed and submitted the documentation to the minister. I have correspondence on that

which I will not take time to read here. The fact is the minister knew at the time. He had all the documentation at the time. Yet he still licensed him. That may be one reason why the government flatly accepted responsibility.

Hon. Mr. Walker: I do not think the minister would have done the licensing. I think we are hanging whoever the minister was at the time.

Mr. Swart: The minister would not have done the licensing.

Hon. Mr. Walker: The Housing and Urban Development Association of Canada would have been doing the licensing, not us.

Mr. Swart: I regret that I only have 10 minutes and I have used up five. Perhaps the minister can answer afterwards.

Hon. Mr. Walker: But you are hanging the wrong guy here.

Mr. Swart: No, I am not hanging the wrong guy. If you read all the correspondence at that time, you will see that there was a recommendation which should have been made by the ministry that this man not be licensed.

Hon. Mr. Walker: Now we are talking about a different thing.

Mr. Swart: No, we are talking about the same thing. A mistake was made.

Hon. Mr. Walker: By HUDAC.

Mr. Swart: No recommendation was sent by the minister not to license him. In fact, there is a letter from the minister that past practice should not be considered.

Hon. Mr. Walker: But there was no letter from the ministry saying that you should license this company.

Mr. Swart: No, obviously not.

Subsequent to the commitments which I have already quoted, a great many more commitments were made. On August 1, 1980, Mr. Drea wrote, "We anticipate an announcement can be made in the future." Mr. Simpson, who is with us today, stated on August 4, 1980, "Repairs will be completed before the winter unless individual home owners ask for a postponement." Again from Mr. Drea on August 15, 1980: "I said the houses will be fixed up and they will be fixed up," and on and on—clear, unequivocal commitments on the part of the minister that they would be fixed up exactly as if they had been under the home warranty program.

Hon. Mr. Walker: But that was on the basis of the agreement he had.

Mr. Swart: It was not stated on the basis of agreement at all. You will see that if you read Hansard. It was stated that they would be fixed up. This statement was made long before there was an agreement, Mr. Minister. I am sure you recognize that. These statements were made in 1978. There was no agreement at that time.

Hon. Mr. Walker: But what forum was he speaking in on August 15, 1980, because the House was not in session and neither was Hansard.

Mr. Swart: I believe it was in the form of a letter. I can get that documentation for you; I do not have that in front of me. There has never been any denial that those statements were made.

I think I should quote again from Hansard of November 5, 1980. Mr. Drea stated: "Okay, as far as I am concerned it is to be done, and if it is not going to be done by them, then all inspection reports come together, the final inspection reports, the definitive ones, and they go through HUDAC warranties program and the work commences. Who pays for it? Let them settle afterwards. It won't be the home owners."

Also on November 5, 1980, Mr. Drea said: "It is not just the winter or the time, but these people have been waiting since the very time it began. . . I was very pleased that we reached the commitment that we did. I regard that as one of the better things I have been able to do as minister. I want those houses fixed."

Those are unequivocal commitments. Then we find, after the March 19 election, that those commitments are all withdrawn. There is no commitment left.

Hon. Mr. Walker: You do not think it had anything to do with March 19, do you?

Mr. Swart: Of course I do.

Hon. Mr. Walker: They were made on November 5 and August 15.

Mr. Swart: On March 18, Mr. Simpson said, "Negotiations with the builders have gone slowly, but it will work out well." That was even on March 18, 1981, according to this newspaper report. Subsequent to that, Mr. Robert Simpson said in this article of October 6, 1981, "I do not think we have ever said that there would be any direct government money in the thing at the time." When Mr. Morty Shulman asked him if the home owners were just out of luck, Mr. Simpson replied, "That's a good summary."

What is the difference between now and the time those commitments were given? I want to point out once again that those commitments

were given over a three-year period—even longer—by the minister, not by an official. Over a three-year period of time those commitments were given before any arrangement had been made with the Rembrandt contractor. They were given during the time, apparently, that an agreement was being negotiated, and they were made right up until the March 19 election. You may say, Mr. Minister, that that is just a coincidence, but I think this committee deserves some explanation on that.

I stuck to my 10 minutes. You should compliment me, Mr. Chairman. I could have presented a lot more evidence.

Mr. Chairman: I do compliment you very much, Mr. Swart. Mr. Williams has 10 minutes. I trust he will similarly stick to the 10 minutes.

Hon. Mr. Walker: I know that at some point Mr. Simpson wants to reply to some comments.

Mr. Chairman: Perhaps it would be helpful if Mr. Williams carried on with his 10 minutes. If Mr. Bradley is here, he can take his five and then Mr. Simpson can wrap it up. The members have finished.

Mr. Williams: Thank you, Mr. Chairman. As was indicated by the previous speaker, perhaps more than any other member of the Legislature I have been involved for the longest period of time with this particular matter, given the fact that the homes in question and the Rembrandt Home Owners' Association are in my constituency.

My involvement came about even prior to my election to the Ontario Legislature as the sitting member for the provincial riding of Oriole. I was involved in a public way as a member of the North York council, to which representations were made at that time to seek some type of relief from the problems that the purchasers of these new homes were experiencing in the mid and late 1970s.

As I said in this committee on a prior occasion, as recorded in Hansard, I indicated that the city of North York, as it now is, did everything possible to assist the home owners, but found that legally there were impediments there that prevented them from doing anything in a constructive fashion to assist the home owners. It was on that basis that the Rembrandt home owners turned to the province—and in part to myself as the person who was seeking election and was subsequently elected in 1975—at the behest of Mr. Bhattacharya who is president of the Rembrandt Home Owners' Association.

4:30 p.m.

At that time, I participated in site visitations to see some of the homes in question and to satisfy myself that there was evidence of shoddy workmanship in some of the homes. I indicated to Mr. Bhattacharya and others in that association that I would make every effort to bring about the enactment of legislation to provide a form of warranty to purchasers of new homes so that this type of thing could not recur in the future without some form of redress in law being available.

Under those circumstances, I proceeded to negotiate with our officials in two areas: one, to bring about the home warranty legislation and also to bring into being a uniform building code, both of which I felt would ensure this type of thing being properly and legally addressed in the future.

I indicated my efforts in correspondence to Mr. Bhattacharya throughout 1976, but did forewarn him it was highly unlikely the home owner warranty program would be made retroactive to deal with their particular situation. In fact, the legislation as enacted did not contain any retroactive features.

Consequently, Mr. Chairman, nothing further could be done after the home warranty legislation was enacted in June 1976 and, prior thereto, the uniform building code. While there certainly have been beneficial effects inherent in those legislative moves, they have not been of benefit to the Rembrandt home owners because their problems arose prior to the enactment of that legislation and the putting in place of the uniform building code.

Very little was done through 1977 and 1978 because of that fact until, after discussions which were initiated by the home owners' association with Mr. Drea, who was then minister, Mr. Drea decided he would exert his own best efforts to endeavour to gain some assistance from the government for these people. But I must categorically deny the statement made by Mr. Swart that the province accepted responsibility for those homes. Factually, that is just not true. Mr. Drea gave a personal undertaking to use his best efforts to bring some satisfaction—

Mr. Swart: No, no, no, not his best efforts. He gave a flat commitment as a cabinet minister.

Mr. Williams: Mr. Chairman, I did not interrupt Mr. Swart and I am adding another 15 seconds, with your permission, to cover the interruption period. The fact is, and I reiterate, at no time did the province accept responsibility for those homes. The minister on his personal

initiative gave an undertaking to do what he could to assist the home owners in the area, while specifically stating that there was no legal authority through which he could bring satisfaction to the home owners.

It was solely on his personal initiative, and I can attest to that based on the discussions I had with the minister. He went that extra mile to bring about through his persuasion an agreement between the builder in question and the home owners. In fact, an agreement was struck. This is what Mr. Swart has failed to bring out to give a total perspective to this situation. He simply refers to comments made in committee and recorded in Hansard, but at no time did he refer to the protracted negotiations that went on behind the scenes by Mr. Drea in carrying out this initiative, that brought about an agreement between the developer and the home owners and, in effect, the government.

The advantage in that agreement which was arrived at in principle, Mr. Chairman, unfortunately was lost because of subsequent actions taken by some of the home owners themselves when they engaged in certain public demonstrations which gave the developer cause to withdraw from the position he had taken and agreed upon with Mr. Drea and the government. This matter was brought up at the time of the last provincial election.

I might point out that whenever I have been approached by Mr. Bhattacharya, or any people from the Rembrandt Home Owners' Association, I have always made myself available to meet with them and to discuss the matter, as I did on January 12 at a public meeting of the Rembrandt Home Owner's Association to discuss the new initiatives that had been taken by Mr. Drea. I have continued to make myself available. At that time, I pointed out to them I thought some of the strategy they were applying was imprudent and that attempts to publicize this matter when negotiations were in process would reflect badly on one of the parties to those negotiations and would not help their cause. That fact notwithstanding, they decided to proceed and, apparently, there were public demonstrations in the form of picketing of the builder's home projects which were under way in the town of Markham and in other areas. The minister's house was picketed, as I gather the Premier's home was as well.

I had cautioned the people who participated in that form of approach to try to find a resolution to the matter, and my caution and concern were borne out because this brought

about a retrenchment of positions. The developer backed away from the agreement on the advice of counsel, whom he felt he had to hire at the time because of the adverse publicity which was being given to him based on these public demonstrations.

On March 16, two days before the provincial election, the question as to why Mr. Drea had decided to back off on this matter was raised to me by the Rembrandt Home Owners' Association executive in a public meeting.

I had to set the record straight. If the questions were asked to embarrass me, I can assure you they did not. I had to make it quite clear that the efforts were being undertaken by the minister on a personal basis to try to bring a satisfactory resolution to this matter. But I had to conclude by saying that, unfortunately, the home owners in this case had been their own worst enemies in taking the precipitous action they did in engaging in public demonstrations that had completely destroyed the benefits that had resulted from the negotiations, and from which the developer withdrew because of those circumstances.

It was most regrettable I had to make that statement publicly at the meeting, and I make it publicly here again today. If those who had decided to choose that tactic had reconsidered and taken a more conventional route in trying to resolve the matter, I am sure there would have been much more positive results.

In conclusion, I simply reiterate that the minister has to be applauded for the efforts he took singlehandedly as the minister, not as the government of Ontario, to bring about what could have been a satisfactory resolution on the matter. There were many hours spent by personnel, Mr. Simpson amongst others, under the direction and instructions of the minister to thoroughly investigate these homes and obtain the information both he and the developer needed to work out a satisfactory solution.

4:40 p.m.

As I say, these arrangements were torpedoed because of the most unfortunate action taken by the home owners or their representatives at the time. I truly do regret that course of action came about because it completely undermined the proceedings. I suggest to you, Mr. Chairman—in fact, I know—that the failure of this matter cannot be attributed in any way whatsoever to Mr. Drea and the actions he took in this matter. On that basis, Mr. Chairman, allowing for the fact that my 10 minutes are up, I hope I have set the record straight with regard to where we stand on this matter at this time.

Mr. Chairman: Mr. MacQuarrie, you mentioned you wanted a question now. You cannot have an official question. If you want to have a very brief supplementary on Mr. Williams' remarks, yes, but it was established a week ago exactly what was going to happen in this regard.

Mr. MacQuarrie: I am taking some of Mr. Bradley's time.

Mr. Chairman: A very little bit, please.

Mr. MacQuarrie: Mr. Chairman, either Mr. Swart or Mr. Williams might be able to answer this. Was this a National Housing Act project and was the construction carried out under the National Building Code as it then was?

Mr. Chairman: We will let the ministry people and the minister direct that. That is a technical question. Mr. Elston, would you like to carry on with Mr. Bradley's five minutes?

Mr. Elston: Yes.

Mr. Mitchell: No prompting there.

Mr. MacQuarrie: I was prompting.

Mr. Swart: We do not bring our whip in. Interjections.

Mr. Elston: It has been a spirited exchange, Mr. Chairman, but let me just make a couple or three comments here, particularly with reference to Mr. Williams and his indication that he is trying to set the record straight.

I can appreciate that he has been involved in this a great length of time, even longer than I have been a member of this Legislature to have become familiar with it. However, when I go through the material which has been amassed and go through in detail the statements and quotations that originated from either Mr. Drea or Mr. Simpson, I would have to point out that even after this public meeting of March 16, 1981, which the member for Oriole mentioned, there is a statement made by Mr. Simpson on March 18, 1981, which said, "The negotiations with the builder have gone slowly, but it will work out well."

That seems to me an indication that even up to that point there was still an ongoing activity and that your advice to the people, Mr. Williams, that they not go out and picket, or whatever, was not seen by Mr. Simpson, at least, to be the final blow to whatever negotiations were being carried on at that point.

Mr. Williams: Of course, I cannot speak for Mr. Simpson as to whether he was aware of these activities or not.

Mr. Elston: Mr. Williams, when we go through the number of quotations provided by Mr.

Swart and some from Mr. Drea which I have accumulated here through research, they seem to indicate the commitment to go ahead and help the people come up with some way to remedy the shoddy workmanship that Mr. Lastman reported on when he investigated those houses on behalf of the North York council.

Hon. Mr. Walker: Mr. Drea figured he had a deal. He figured he had a settlement with this builder.

Mr. Swart: In 1978, he did not.

Hon. Mr. Walker: No. But when he was talking back here in—

Mr. Swart: He gave his commitment in 1978.

Mr. Chairman: Mr. Elston has the floor.

Mr. Elston: In 1978, he made commitments. In 1979, he made commitments. There is a quote of August 22, 1979, which says, "I have reached an agreement with HUDAC home warranty." It was part of the same quote that Mr. Swart made. However, between that time when the agreement was struck and 1981 when these demonstrations, which apparently led to the downfall of the agreement, took place there were numerous commitments. I will just quote you a few of them.

Mr. Williams: Demonstrations were much earlier than 1981.

Mr. Elston: On August 1, 1980, Mr. Drea wrote, "We anticipate that an announcement can be made in the near future." On August 4, Mr. Simpson said, "Repairs will be completed before the winter." On August 15, Mr. Drea said, "I said the houses will be fixed up and they will be fixed up." Now this comes over a year after the agreement was reached with HUDAC and still there is no movement from these particular commitments to have these things done. It seems to me when you have people waiting for these houses to be fixed up and shoddy workmanship to be fixed up that they have a right to get a little bit itchy when it drags on for years at a time. We are looking at a time lapse here of almost three years between then and March 16 or 18 when you had your public meeting.

I can assure you that if you are sitting in a building with a roof that has to be replaced, when all you think you need are shingles, but you find out that you need a whole roof to cover the building that you purchased, you would tend to get a little itchy. It is particularly disturbing that these people felt, I think justly, that they

were going to get some remedy to their predicament based on these very clear commitments to carry out the repairs to their houses.

What we need to know is what steps have been taken. Obviously, you point out the legislation, the uniform building code, but it seems to me that we should have some information available as to what has happened to the Rembrandt Homes group. We know that it has been disbanded. We know that the people, at least some of them, are still in business. It seems to me that if they are still in business in another field, somehow there ought to be a way to work on them to have this particular situation cleared up. The 325 homes were sold many years ago now and the people have not only paid the purchase price, but they have put out of all the costs of repairs. Probably they are still in a difficult bind with what I understand to be very serious water problems in basements, cracked foundations and things like this.

Mr. Williams: I do not think anybody is questioning the legitimacy of the complaints.

Mr. Elston: What I was coming to, Mr. Williams, was that you tended to put a lot of extra pressure on the individuals because they tended to react in a public forum. It may not be in the way in which you would advise them.

Mr. Williams: I did not put any pressure on them at all.

Mr. Elston: You said here that they are largely the authors of their own misfortune.

Mr. Williams: They were by participating in those demonstrations.

Mr. Elston: I cannot say I blame them for participating in the public forum to bring attention to the difficulties which they had experienced for virtually three years in trying to come up with a solution to these particular difficulties. I would just like to find out, if I might, what sort of things have happened to the people of the Rembrandt group, where they are now and whether or not there are special monitoring procedures in effect to make sure that those principals are now not in another form of the building industry carrying on something similar to the difficult situation which has arisen in the Rembrandt home issue.

Hon. Mr. Walker: Let Mr. Simpson respond to the points that have been raised.

Mr. Simpson: Mr. Swart dealt with the question of the registration of these particular builders, and Mr. Elston just raised the question of where are they now. As the minister indicat-

ed, Mr. Swart, the registration decision about this builder was made by the new home warranties program under the authority given to them by the statute. It was the subject at the time the decision was taken of a great deal of deliberation—indeed, confrontation.

Mr. Swart: With the ministry?

Mr. Simpson: No, not with the ministry, Mr. Swart. There was public debate on it, spearheaded by people in the association and certain people who had an interest in it. I know you have indicated, Mr. Swart—I made a note here—that you had a letter somewhere that would have indicated that past practice was not in any way a governing factor in respect of the decision. I cannot speak firsthand with respect to that decision because I was not a party to the decision, but I do know from the work we did as a result of the continuing debate over this in 1977-78 that we went through quite thoroughly what the program had done.

4:50 p.m.

Without in any way carrying a brief for any particular position in this—Mr. Drea had a point of view—all I wanted to indicate at that time is that the program did consider past performance. They did go back over the builder's track record in making this particular determination, and I think this was dealt with in the House as a result of a petition. They looked at what had been built and they surveyed a number of purchasers.

There really was no question that back in the early 1970s there was a debate over this particular group of houses. Then there were subsequent developments that were done in a number of other places. This firm under its various corporate headings is a very large builder. They went into quite extensive surveys of the construction in 1974, 1975 and 1976, including surveying a lot of purchasers.

I am not suggesting it was a great process or a bad process. All I want to clarify is that it was not a process that the ministry or the minister had any direct say in because the law provided that that determination had to be made by the people running the program. It is just like one of our registrars having to make a decision.

Mr. Swart: When you say "direct say," you mean direct decision-making.

Mr. Simpson: Yes, that is right.

Mr. Swart: You had say but not decision-making.

Mr. Simpson: We had say, but we had no

authority and no responsibility for that decision. All I want to point out is that the program did go into it quite extensively.

As to the current situation, this particular corporation, these particular individuals, are still very large builders in this province. They build a lot of units in a lot of communities. Their incidence of complaints and so on is average for a builder their size. I had the numbers the other day and, unfortunately, I do not have the piece of paper in my pocket today. They are no better and no worse than a lot of others in terms of builders their size that put up hundreds of units every year.

My recollection from that slip of paper is that their resolution of problems is now, and continues to be, very good. They have never had a case go to conciliation or to tribunal. In other words, nobody has ever had to pursue the formal legal processes to get something resolved.

As to the association and the commitment by the minister, and indeed the things I have indicated over a period of time, the minister did have an undertaking, a commitment, with HUDAC through his good offices to try to assist the association, to try to assist these people to get some things done, the point being, for everybody's sake, to put this thing behind us.

The home warranty corporation undertook to carry the ball with the builder, undertook an inspection program, expended a few thousand dollars on some engineering reports and proceeded to have extensive negotiations with this particular builder in the course of 1980, and that went over a number of months. For everything we indicated through May, June, July, August and probably September 1980, the quotes are all there; they are all in Hansard. "We think it is going great." "We think we have got a deal." "It is looking good," and on and on and on. There is no question about that because we believed we did have a deal.

We had problems. I must be quite frank about it, I admire the tenacity of one or two of the individuals in this particular association. Mr. Bhattacharya, since the time the question first arose about the homes and since the time the registration of this corporation was up for consideration, has been a tireless worker in advancing the cause—ceaseless, just total and absolute dedication to fighting this particular problem.

Our problem really started last summer when we said, "Things were going along. Be patient." Things were not going that fast; I do not disagree with that. The inspections took longer

than we would have liked. The resolution of the engineering things took longer than they probably should have. But it was going along not too badly. The builder was still in. Then we went through a real spate of media exposure in July, August and September of last year.

One evening last summer—I believe it was July 19—when we had a meeting scheduled with the association, it turned out to be a five-hour press conference to my surprise. That was fine. There were a couple of reporters, one from the *Globe*—I think it was Douglas Yonson—and one from the *Star*, who I think was Cecil Foster from the North York *Star* bureau. We went through five hours of talking back and forth about what was going on.

The pilgrimage of the association people had included virtually every medium in every situation; there was not anybody who was not visited. Our problems began when the builder started to read in the newspapers and see on television things about his particular concern, what a bad guy he was and the fact that he was building here and building there and so on. It was after that spate of publicity that he consulted his corporate counsel, who, I am sure, said: "Mr. Builder, I have to advise you here you have no legal obligation. These homes are almost 10 years old. You have no legal obligation." Things started to deteriorate from that point on.

As to the March 18 situation, somebody has a tremendous advantage over me. There is a quote that is attributed to me as if I made it in a letter or on TV or something. I do not know where they got it; I do not know from whom it came. I have had no contact with anybody concerning it; nobody asked me about it. Dr. Shulman did not read it to me, and it is in his article. I cannot recall talking to anybody. There is only one person who called me at all after negotiations broke down, and that was someone I know.

I cannot be categorical. If someone tape-recorded a conversation—I never had a three-second conversation that simply said that was it—if there were any words used like that, it would have been part of at least a five-minute conversation. These are 10 words out of a conversation that may or may not have taken place; I have no idea. In any event, I know for darned sure that as from November and December on, long before any considerations of an election—and I was here all of January—my indication to the one fellow who called me was, "I would love to see something happen but it is out of my hands. I cannot see any way of

salvaging the thing. We have big problems now and I just do not know if it can be pulled together."

I would also like to indicate—this can be confirmed by my colleague at the office Mr. Ralph Lewis, a lawyer who is involved in this—that I had a discussion with the vice-president of the Rembrandt Home Owners' Association. I do not know when it was—maybe September last year—when we were going back and forth. Every day I was getting calls from the media saying, "What are you doing?" I kept saying, "I am not going to negotiate this thing through the media." The other explanation I gave was, "I do not want to stigmatize the whole area of North York. There are 300 homes. I do not want to stigmatize these homes. There are a lot of excellent homes and a lot of happy people."

I asked the vice-president of the association in a very candid conversation one morning—and I remember it very well—"Do you realize what is happening? Do you realize what you are doing? We are going to have troubles with the negotiations. We cannot negotiate through the press. And do you realize you may be stigmatizing your entire neighbourhood of 300 houses? You may be costing yourselves \$1,000 in equity every time the place is indicated in the newspapers." The answer was, "We are taking a calculated risk, point-blank. We know that it is a risk. We feel we have to go this way."

Mr. Elston: But in the hope of getting these repairs done.

Hon. Mr. Walker: Of course. The aims and objectives of everybody are the same.

Mr. Simpson: As I say, I admire the tenacity of Mr. Bhattacharya. He has been a tireless campaigner for one thing or another. But this is one of those cases where the various things that arose made it very difficult to conclude an arrangement with this particular builder.

5 p.m.

Everything we said, everything Mr. Drea said through the summer and through the fall, was said in total good faith, in the belief that we had something and would get it concluded. At this stage, there really is nothing much more I can do about that particular situation.

Mr. Chairman: It was the consensus and understanding of the committee that we would have the five, 10 and 10 on Rembrandt and then item 6 would be called.

Mr. Swart: Can I come in here, Mr. Chairman?

Mr. Chairman: Before we get to your point, Mr. Swart, let me say that Mr. Andrewes apparently is desirous of speaking about something on which he missed his turn earlier. Mr. Philip, who has something on at item 5, also wishes to speak to something on this same business practices vote, item 6.

What am I to do? What does the committee wish to do?

Mr. Williams: We spent a good half hour the other day wrangling over procedure. We finally came to that clear-cut agreement and I think we should stick by it. Mr. Andrewes does have the right to speak for 10 minutes on another matter on item 6. I think we should stick with it.

Mr. Mitchell: If you will recall the motion I made, time has played funny games on us in this committee. My motion was basically to recognize the time that has been allocated to Mr. Swart and that was previously allocated to Mr. Bradley and to Mr. Williams, plus 10 minutes for Mr. Andrewes. That was the gist of the motion. It had the concurrence of this committee. I feel that no more need be said.

Mr. Williams: That is right.

Mr. Swart: Surely what we are really discussing is a commitment by the former Minister of Consumer and Commercial Relations—an unequivocal, flat commitment—and this minister should give some indication of whether he is prepared to live up to that commitment, which was given unequivocally and many times.

Mr. Williams: Mr. Chairman, I think Mr. Swart is out of order.

Mr. Swart: I do not think it is up to Mr. Simpson. I do not want to argue with Mr. Simpson. He is an official here. It is surely up to the minister to state whether this commitment is going to be lived up to.

Hon. Mr. Walker: Under what authority?

Mr. Swart: What authority what?

Hon. Mr. Walker: Under what authority?

Mr. Swart: As a member of the government.

Hon. Mr. Walker: Come on. He thought he had a deal and I gather from what has been said the people went and blew it.

Mr. Swart: Whether he thought he had a deal or not is irrelevant. He gave commitments through this committee to the Legislature.

Mr. Williams: He got the agreement that he committed himself to get.

Hon. Mr. Walker: In contract law they would say that a contract had been frustrated.

Mr. Swart: A contract was made with the members of the Legislature.

Mr. Chairman: Gentlemen, we have had much more than we agreed to have. Is it possible, before Mr. Andrewes carries on with his nonrelated-to-Rembrandt topic, that Mr. Philip's concern is dealt with? He wishes to deal with Condominium Ontario. I understand from Mr. Simpson that it fits under business practices, item 6.

Is it possible to fit that under policy? Is that correct, Mr. Philip? Is it possible to fit it under some other vote? I know property rights has a vague resemblance to condominiums. Is it possible to fit that matter under some other vote and item?

Mr. Philip: My questions would only take about three minutes or four minutes.

Mr. Williams: You limited us on this very important item to a certain specific time frame and directed the rest of the members of the committee on time allocations. If you do not mind Mr. Philip going ahead, if you want to give him three minutes or 10 minutes, I wanted extended time to deal with this issue as well, if you are going to bend the rules and decisions we came to the other day.

Mr. Chairman: That is why I am asking if he can fit it in under another topic. Will the minister permit Mr. Philip to come in under another item?

Mr. Swart: It is whether you do, with all due respect; it is whether you as a chairman do. The minister is not running this committee.

Mr. Williams: You came to a decision the other day.

Mr. Chairman: Yes. Therefore, since the chairman has dealt as a solicitor with condominium corporations under the Registry Act, I will rule that it can come in under property rights—

Hon. Mr. Walker: Hold on a moment.

Mr. Chairman:—and the chair has so ruled. Mr. Minister, I am getting pushed here, so I have ruled. You can refuse to answer under that, but the chair has so ruled.

Mr. Andrewes, please carry on with your 10 minutes.

Hon. Mr. Walker: Would you allow me 15 seconds to clarify something?

Mr. Chairman: Yes.

Hon. Mr. Walker: Please state the date and the time that you want Mr. Simpson to come back, now that you have ruled in the way you have.

Mr. Philip: I would take only three minutes, so Mr. Simpson does not have to come back.

Mr. Chairman: No, Mr. Philip. Mr. Williams is quite correct. We did come to a very explicit agreement as to time. In my mind, we are already stretching it with Mr. Andrewes.

Mr. Andrewes: Perhaps my question would only take seven minutes, then Mr. Philip could have three.

Mr. Chairman: No, I am sorry. I really cannot do that. Mr. Williams is quite correct. Since we do not have any unanimous consent to alter that, I guess Mr. Simpson will have to come back when we deal with property rights. With regard to his time, we will try to—

Hon. Mr. Walker: Just tell him the time you want him and he will be here for those 10 minutes.

Mr. Chairman: Fine, thank you, even three minutes.

Hon. Mr. Walker: You tell him the exact moment you want him to come back for those questions.

Mr. Chairman: The clerk will transmit it to him.

Hon. Mr. Walker: When is he supposed to come back?

Mr. Swart: I think our clerk could give him an approximate time on this. We are meeting tomorrow and then next Wednesday.

Mr. Chairman: Since we cannot know exactly when the items are coming on, that would be under property rights, which, according to our original motion, is five hours from now.

Mr. Philip: As a way of making it easier on the minister's staff, would it not be possible to simply temporarily move up that one item at say 5:45, or some time like that, after the item we are dealing with now? Then we could simply reopen it at that time.

Mr. Chairman: That is up to the committee.

Mr. Philip: That would save Mr. Simpson coming back. It would mean that I could deal with it.

Mr. Chairman: Committee, what is your choice? It is not going to be dealt with under item 6. What is your choice as to when we deal with it?

Mr. Williams, you are one of the protagonists or antagonists here. May I hear from you?

Mr. Williams: I will just reiterate what I said earlier, Mr. Chairman. We spent a half hour establishing a time frame.

Mr. Chairman: Oh, yes, and it is not coming

under item 6. Mr. Philip has asked that this matter be moved from five hours from now until a half hour from now.

Mr. Williams: To accommodate Mr. Simpson, I will agree to that if we have three minutes left at the end.

Mr. Chairman: Thank you. You have a meeting, Mr. Philip. You will be back by 5:30?

Mr. Philip: I will do my darndest to be back.

Mr. Mitchell: If you are not, you have lost.

Mr. Andrewes: My question relates to a subject entitled in the outline, "Consumer liaison with consumer associations and community groups." I suppose it relates to what is categorically known as loss-leader selling.

I am rather concerned that the method of selling often undertaken by retail operators, particularly the major food chains and particularly during the production season of Ontario food products, creates certain misconceptions in the market place and in the minds of consumers. It often creates the misconception that there is an abundant supply of product. In many cases, a consumer might believe there is a surplus of that commodity.

The difficulty that arises from this misconception is that under the short production season we experience with many of the crops we grow in Ontario, the short season in which they are in the market place, the effect of that loss-leader selling, even for a period of a week, is that it may take another week for the industry to recover, for the price to rise to a level that is reasonable and fair as far as the retailer, the producer and the consumer are concerned. In many cases, the product is only on the market for five or six weeks and the producer has lost the advantage of a viable market place for that period.

5:10 p.m.

What could and does happen with many of these commodities is that reduced production could result. For example, let us take a commodity like field tomatoes which many producers grow. They have certain costs involved in the production of that crop. It moves to the market place. Presenting it to the market place carries with it certain costs, and then it is offered to consumers at something considerably less than the true cost reflects. In many cases, the retailer tries to offset some of his loss on to the producer. The producer subsequently says, "I am not going to produce that commodity any more." Thus, the whole operation has a negative effect in terms of supplies being offered to the consumer.

I wonder if the minister might comment on whether we could reach a blend of sort of the natural, healthy competition, in terms of domestic produce particularly, and really effective retail exposure. From my own experience, loss-leader selling really did give the product offered very effective retail exposure. It moved a lot of product in a very short period of time. Perhaps we could try to blend that with some natural healthy competition, so we do not have the deleterious effects that the practice may have on certain segments of the industry.

I wonder if you might comment on that, Mr. Minister?

Hon. Mr. Walker: Are those three minutes up now?

Mr. Chairman: No, he has 10.

Hon. Mr. Walker: I guess what you have asked for is some form of price-fixing. That raises some interesting aspects.

Mr. Swart: Loss-leader legislation, such as they have in other provinces.

Mr. Andrewes: To explain a little further, we used to have legislation in this province that restricted the advertising on loss-leader selling. There was never any action taken under that legislation; I do not think producer groups ever even considered taking action under that legislation. But it did give you a sort of bargaining power so you could go to chain stores and say: "Look, this is our marketing program. We have X units of commodity to offer you week by week for 10 weeks. We agree that you should have certain opportunities to give your customers a good deal. We will agree to supply you with a given quantity during this week. Your competitor will get them this week." You would have a much more honest system.

What has happened in the last few years is that certain chains are coming in and getting involved in a total price war, the other competitor across the street feeling obligated to meet that price in the following week, and downward pressure on the whole industry, particularly the producing side of the industry, to the eventual detriment of everyone.

Mr. Swart: You might need some intervention in the market place.

Hon. Mr. Walker: That is rather interesting. I suppose what you are suggesting is a government legislated form of, not necessarily price control but probably a conspiracy to decrease competition. That raises some interesting aspects in our competitive system that might not lead to a benefit to the consumer. In the interest of

consumers, it is to their benefit to see that competition does its wonders. To do as you and Mr. Swart—Mr. Swart even more so—suggested is to destroy the competitive aspect of it. It is putting it too strongly to say it destroys the competitive aspect, but altering the competitive aspect of it makes it very difficult if you believe in the concept of competition.

Mr. Andrewes: With respect, I am not suggesting we destroy the competitive aspect.

Hon. Mr. Walker: I said I used that word too strongly.

Mr. Andrewes: Perhaps through the good offices of this ministry and other ministries, someone should sit down with these chain stores and tell them we have a domestic industry that is only in the marketplace for 10 or 12 weeks of the year. If we start kicking around the products of this industry willy-nilly, week after week, we are not going to have a domestic industry. Certain phases of that industry are going to disappear. It is important that the retail exposure be there. I think that domestic industry is prepared to produce products, but not on a basis of less than the cost of production. On short-term, annual crops it will just not work and it will not last.

Hon. Mr. Walker: The part that is bothering me so much is that Mr. Swart is agreeing with you. I am finding it very difficult to support this proposition.

Mr. Swart: That is a real problem there, Mr. Minister.

Mr. Andrewes: Mr. Swart and I are in neighbouring ridings. We have that in common.

Mr. Swart: We both know the problems of those producers down there.

Hon. Mr. Walker: That presents a problem, Mr. Swart is supporting you. *Ipsa facto* there is something wrong here. We better check out what you are asking very carefully.

Mr. Swart: We did it to peaches this last year. I had the chairman of the marketing board call me.

Hon. Mr. Walker: Undoubtedly, we have to tackle the question you have raised and we will spare no effort in having it addressed.

Mr. Chairman: Are you, Mr. Andrewes, finished with your subject?

Mr. Andrewes: I am not sure I got the answer, but I think I have asked the minister the question and I have sown the seed.

Mr. Chairman: Mr. Williams, may I seek your advice? How can we carry item 1 if Mr. Philip's

three minutes is to fit within item 6? Is it to fit within item 6, or is he speaking ahead of time under property rights? Is it agreed, Mr. Williams, that it is under property rights?

Mr. Mitchell: You ruled that.

Mr. Chairman: I believe I did. There being no further speakers, shall item 6 carry?

Item 6 agreed to.

Item 7 agreed to.

Vote 1502 agreed to.

On vote 1503, technical standards program:

Mr. Chairman: We have two hours, I believe, allocated to this. I just might give you a run down. We are running very close to three hours over time on the first two votes.

5:20 p.m.

Hon. Mr. Walker: I have to say something, Mr. Chairman. As we conclude that vote and before we start on technical standards, there is no doubt that vote had in it certain elements to cause the committee a great deal of interest in the past year. The committee, in its wisdom, saw fit to go nearly two hours beyond what it had originally allocated as a legitimate amount of time to consider that vote. Not only was the committee, and particularly the Conservative members, so supportive of it, but they even allowed it to go pretty close to an hour beyond what had originally been proposed by Mr. Bradley in the first place.

I must testify as to the co-operativeness of the committee in terms of attempting to resolve the matter, and mention as well that I cannot think of a question that was not answered in the time it was there. You might not have agreed with all of the answers—Mr. Swart did—but I am sure that other members would not agree with all of the answers we gave.

Mr. Chairman: Thank you. Any speakers on the technical standards program?

Mr. Swart: I agreed with some of the answers you gave. There were ones you refused to answer, such as, what are you going to do with Rembrandt? I disagreed with that.

Item 1 agreed to.

Item 2 agreed to.

On item 3, pressure vessels safety:

Mr. Williams: Mr. Minister, there was some effort a year or two ago, I believe, to restructure the legislation dealing with pressure vessels and related to the administrative procedures and the responsibility with regard to carrying out the inspections and certifications. It is referred to in

the briefing notes with regard to amendments to the act and regulations that are planned. Are these in keeping with those earlier discussions of a year or two back dealing with certification repairs by the insurance company inspectors?

Hon. Mr. Walker: Mr. Yoneyama, would you answer that question?

Mr. Yoneyama: We are proceeding with the amendments. At the moment, we are meeting with the various industries and the insurance groups to ensure that they do have the capability of carrying out the repair inspections.

Mr. Williams: What type of force would have to be mobilized by the insurance industry to replace the responsibilities at present being carried out by ministry staff?

Mr. Yoneyama: That is one of the questions we are asking the insurance industry. Most of the devices in the province are in situ and the insurance companies do carry their own inspection force. In terms of added resources by the private sector, we anticipate very minimal additional requirements on their part.

Mr. Williams: Is the insurance industry supportive of this approach? Are they the ones that are taking the initiative in this field, or has it rather been the initiative of the ministry to restructure the inspection process?

Mr. Yoneyama: It is a little bit of both. The conversations I have had with them indicate that if the law asks us to insure devices in the province would it not be fair then for us to carry out the repair work as well. It is the sort of discussion we had some time ago. We looked at our statute and the regulations and we are now at the point of supporting their concept. Meetings we have had with them to date indicate that we should proceed with the amendments to that act.

Mr. Williams: Is there not some difficulty in this one instance in privatizing the process relative to the recognition, or lack of recognition, that might be given to certifications conducted by parties in the private sector, as contrasted to certifications given with regard to structurally sound vessels and otherwise for manufacturing or operating purposes or whatever? With respect to satisfying other jurisdictions and insurers from other jurisdictions, would the certifications given under this new process be as widely recognized and accepted as have been the endorsements and approvals given under the certification and stamp of the Ontario, as has been the present practice?

Mr. Yoneyama: There is no thought of privatizing the fabrication inspection side. The insurance companies will only come into play on devices in situ in Ontario.

Mr. Williams: They are those that are already in operation; it has nothing to do with the fabrication aspect of it. Those inspections would still be carried out by government inspectors with government certification. Was not the original plan to carry it right through the process, from fabrication through to operating?

Mr. Yoneyama: Yes, that was the original discussion.

Mr. Williams: In fact, there has been some variation from the original proposed amending legislation as discussed a year or two ago?

Mr. Yoneyama: Yes.

Mr. Williams: That distinction will be made and recognized in the proposed new legislation?

Mr. Yoneyama: The amendment will carry only periodic inspection of those devices in operation and in the province.

Mr. Chairman: Are there any other speakers on item 3?

Mr. Swart: Yes. Under the matter of the building code, I have a note here on that.

Mr. Chairman: That is item six.

Mr. Swart: Oh, that is right.

Item 3 agreed to.

On item 4, elevating devices:

Mr. Chairman: Shall item 4 carry? Mr. Mitchell.

Mr. Mitchell: No. I am sorry, it was not on elevating devices. It is on the building code.

Mr. Swart: You missed one here. You are not talking about cabinet positions.

Mr. Mitchell: What was that? Just a moment, Mr. Chairman. What was the interjection from the other side?

Mr. MacQuarrie: He said some of us would get lost on an elevator.

Mr. Swart: We were on elevating devices, but since we are not talking about cabinet positions, we said we could move on.

Interjections.

Mr. Williams: I have just one observation, Mr. Chairman. Maybe the minister could clarify just a small point relative to administrative expense with regard to the practice, up till the present time, of physically posting in each and every elevator, as it is commonly known, the certificate of approval with the minister's signa-

ture attached thereto, indicating approval on an annual renewal basis. I thought there was some move afoot to try to reduce that rather costly administrative procedure and do away with the necessity of posting the annual certificate of renewal in individual elevators.

Are you aware, Mr. Minister, whether changes have been made in that regard, or is that remaining in place for the time being and, if so, why?

Hon. Mr. Walker: That is remaining in place. Cabinet took the position—it may be almost a year ago now—that it was something which the public found comforting in having some knowledge of, and the odd minister probably did not mind having it around either. That was over a year ago now. I know that Mr. Drea at the time was inclined towards having it taken out, but cabinet basically concluded that it would like to have that in as a measure of public confidence, so that when people stand in an elevator they know the elevator is going to up and down in the proper way.

5:30 p.m.

Mr. Kerrio: Up is not a problem. It is whether it goes down too fast.

Mr. Williams: That brings me to the subject matter of the elevators in the legislative building.

Hon. Mr. Walker: I am going to have my name taken off those. They are far too slow.

Mr. Williams: I do not think they are there, are they?

Hon. Mr. Walker: Yes, they are there.

Mr. Chairman: Is that your point, Mr. Williams?

Mr. Williams: No. I recall the matter came up earlier, and you have confirmed my recollection that the decision had been taken to leave them in place. If it is reassuring to the public, to the extent that the cost can be justified, then I accept your answer, Mr. Minister.

Hon. Mr. Walker: There is relatively little cost attached to it from our end. It would have to be provided anyway. Some of the elevator operators found these became the object of vandalism—probably more so leading up to an election and less so afterwards. They seem to have a certain amount of attraction to vandals in some buildings in some parts of the province. On the other hand, I do not suppose there is anything that is more widely read. People either look at that or look at the numbers in an elevator. It seems to be the nature of the

Ontario public and Canadian public perhaps that they do not talk to each other when they are in an elevator. If we endorsed our licences with some comment like, "Please talk to the person beside you in the elevator," it might be worth while. That is probably not a bad idea.

Mr. Chairman: Thank you. Mr. Williams, does that answer your question?

Item 4 agreed to.

On item 5, fuels safety.

Hon. Mr. Walker: I should mention here that in recent times I have taken the opportunity to look into compressed natural gas as an alternative fuel compared to what has been looked at before. Often we spend a great deal of time thinking that the alternative fuel is propane, and in many cars it is; however, I have looked into compressed natural gas.

In northeastern Italy I had a chance to look into compressed natural gas not too long ago. I must say it is a very attractive way of propelling cars. In Italy there are about 400,000 cars equipped with compressed natural gas conversion units and the drivers can attest to greater and better mileage, and if I am correct, Mr. Deputy, at about half the cost.

Canada has a phenomenal amount of natural gas. One can virtually equip a service station wherever there happens to be a natural gas line, which does not have to be any bigger than the traditional line which services people's homes. So compressed natural gas is certainly an alternative fuel. I have spoken to my colleague the Minister of Energy (Mr. Welch) to encourage him to incorporate that as an area of future endeavour.

A program is now under way by the province to see 80,000 cars equipped by 1985 with propane as an alternative fuel. We should also be looking, on the basis of our investigations, into compressed natural gas. It is phenomenally safe as a fuel. Compressed natural gas is just what it says. It is ordinary natural gas, which has no smell except that rotten egg smell, or whatever it is they put into it, and which is simply compressed to about 3,000 pounds per square inch. It has an explosion point that is only arrived at in a certain set of circumstances. It requires, first, to be in a certain very small defined range, plus a second factor which is a spark.

Mr. Williams: Is this propane you are speaking of?

Hon. Mr. Walker: No, compressed natural gas. I am taking a few moments to try to explain

a few things about it. It took me a long time to sort these out in my own mind; perhaps I can transmit some of the final sorting-out process.

We have, on the one hand, the regular distillates in fuels which we traditionally buy at the gas station, that is, ordinary gasolines and diesel fuels, the ones with which we are most familiar. On top of that is LPG, liquefied petroleum gas, and liquefied petroleum gas is propane. Propane is arrived at in a bit of a different way. The third fuel is something called CNG, compressed natural gas, which is simply the same stuff that comes into your house to provide fuel for your furnace compressed to 3,000 psi.

In a typical car installation it would be compressed into about two bottles about the size of welders' twin bottles of oxygen and acetylene, which are usually about a yard and a half high. Two of those in a car are sufficient to equip a car with a capacity to go a couple of hundred kilometres at 3,000 psi. It does a fine job. It burns superbly, and there are absolutely no fumes, if you think of the fumes that are given off in your kitchen when you have the gas ignited. The whole thing completely vanishes, and that is what makes it highly attractive. There is absolutely no environmental concern because there is no exhaust. In many respects it is just like hydrogen. In the case of hydrogen, the only thing that comes out the back is an exhaust of H₂O or water.

Mr. Williams: Mr. Minister, I think those great advantages you have referred to will be even greater when we move into the economically viable field of hydrogen fuel for transportation purposes.

Hon. Mr. Walker: Yes, but we have not reached the point where hydrogen becomes an attractive alternative. That will not happen until the price of the other fuels climbs to an amount where it is an impossible situation.

The beauty of natural gas is that it is absolutely clean when used in a car. It is cheap, and Canada has simply trillions of cubic feet of it. You cannot believe the amount. We have the whole network in place in Canada for bringing it in. I think it behooves us as a government to look very seriously into that as a truly logical alternative.

The safety factor of compressed natural gas, which everyone is concerned about, is in my opinion far greater than the typical wet gasoline we use in cars. It is several times safer. It would appear to be more safe than propane from what

I have been told. I am not here to argue one against the other. All I am trying to say is that we have something we should be looking at.

I have reason to believe there is going to be a CNG service station opened in Canada in the not too distant future. It is going to be here in Toronto, basically in the west end area, and it will be interesting to see how the experiments prove out. I will be one person who is prepared to take a car and have it equipped with CNG capacities. The cost of conversion today might be about \$1,500, but when there are a few companies doing it the cost will be down to \$1,000 in a matter of months, and probably less than that before too long.

The benefits are immense. It is absolutely clean, which has to mean a real improvement in the environment. I have gathered from the material that if you had a fork-lift truck using compressed natural gas in this room, it would not be any bother even in a closed door situation. It has a lot of attractions. It burns in the engine beautifully, and there are not the problems of wear and a host of other things that gasoline and oil cause. Its safety is also a consideration. I am quite impressed by it and I think the committee might offer some comments on it. We took a particular interest in it because we have to start writing specifications for gas stations. As you know, we license all the gas stations.

Mr. Swart knows very well about the explosion in Fort Erie which was caused by something we have not been able to identify fully, some kind of fumes which ended up in a sewage plant and blew the sewage plant to smithereens. There are some obvious problems and we have a number of areas of concern. Before people get into selling this kind of fuel, we have to come up with specifications to ensure the safety of the public.

When I looked at those places in Italy, I was most impressed by the safety factor and the fact that one could operate a place with a very modest installation. Some new machines have been invented in Italy and some of them are being shipped to Canada. The chap who showed us around in Italy is the man who invented this machine which allows for the compression of natural gas in a safe way that was not formerly possible.

The machine is a completely closed compressor which is able to pump this stuff properly and it is a unit that is capable of being purchased. In other words, every service station could have one. One would simply tap into the natural gas line out in front.

Mr. Elston: I have a couple of things. One is that this discussion coincides with the visit today of the car that was operated on anhydrous ammonia which basically uses the hydrogen input. Although the literature that was available there in sort of a one-sheet brief indicated that it was very safe in terms of explosive capacity, it failed to mention that there is a significant caustic property in anhydrous ammonia that can cause very severe problems with people, though there is a little segment in that pamphlet that says it can be operated safely even if there is a leak somewhere.

Hon. Mr. Walker: Does it give anything off from that? Is there an exhaust?

Mr. Elston: Yes. For instance, when it was started by the Minister of Energy, I would not say he was not being efficient, but he flooded it and you could smell the ammonia. After it is running, of course, there is steam and then nitrogen. The thing I am concerned about is the handling of the anhydrous ammonia when it is placed in the tank and also the way it is dealt with at the stations.

The people who were with this car were saying that they expected to have one fleet for sure in operation in the western provinces very soon. I can imagine it is only going to be a matter of time before it comes to Ontario. I would like to know what is going to be done with those sorts of things, taking into consideration that they say the cost of operation is very comparable to that of propane.

Hon. Mr. Walker: With propane we are addressing the question of the kind of service stations that one will have before long. Safety, of course, has to be the key consideration. I know that is so with compressed natural gas. I do not mean to be carrying a brief for compressed natural gas, so do not read me wrong, it just happened to be the most recent thing I was looking at as you were looking at the ammonia one, which obviously has some problems attached to it. We were asked questions about compressed natural gas. Where would you store it? If you had to store it, could you store it in a tank? Well, they store some of it in a tank for the purposes of it being drawn off and then they replenish the tank during the slower hours, like all night or whenever.

I figure a tank of compressed natural gas would be above ground. What would happen if you drove a car into it or shot a bullet through it? The answer is that the gas would escape; that is all. That is the extent of the damage. It is not

going to blow up. It takes a certain set of peculiar circumstances. The only way it can blow up is to have precisely the mixture of 15 parts oxygen to one part gas. When you have that mixture, plus ignition, then it would blow. Of course, it does not blow the world, it simply blows up. Apparently, it does not have that effect, likely, in a car.

It would take a strange set of circumstances to get a precisely 15 to one ratio. It has to be that very precise range, whereas with other gases—I think with propane—it can do it anywhere between one and 50 to one. I think I am right on that. If there are any of the mixtures of one to one up to 50 to one without ignition, that is an explosive situation. Without trying to denigrate any of the products here or support any of the products, there is an additional safety factor in the compressed natural gas that impressed me.

In the buildings in Italy where they had it, they simply put a plastic roof on to keep the rain off. Then if it does blow, and they are ordinary cement walls a couple of inches thick, it simply blows up and the roof blows off, and they put another \$29 plastic roof on the following week. They have not had any explosions to my knowledge, but they have 400,000 cars operating on it in Italy. It is a new area that we are going to have to address certainly and it has impressed me so far.

Mr. Elston: Do you have any people involved in the area of dealing with hydrogen fuels because that is something basically that is of extreme importance to Ontario? Even if compressed natural gas gives away, we have an abundance of hydrogen. It is a very important fuel and particularly important where there may be hydrogen production facilities in operation, namely, Pickering or Bruce nuclear power developments.

Hon. Mr. Walker: Harry tells me the Ministry of Energy basically is involved in the hydrogen area. We have not seen any hydrogen stations yet. I suppose the first time a hydrogen service station turns up will be the first time we will get kind of excited by the prospect. To be honest with you, I do not know what a hydrogen service station would look like. I suppose it is a big battery charger.

Mr. Elston: It is largely the same sort of storage as you have with the farm fertilizer business.

Mr. Andrewes: That is liquid hydrogen.

Hon. Mr. Walker: You pull one of those after your car like a trailer.

Mr. Chairman: Gentlemen, may I interrupt for a moment? It is my understanding that with the emergency debate on there would in all likelihood be no private members' bills, so there would be no votes. I would just ask Mr. Williams to please double check that I am correct so that there cannot be any doubt. Sorry for the interruption. Go ahead.

Mr. Swart: I will just take a minute because in some respects we are getting to the safety aspect of this whole thing. Can you also perhaps devise some system whereby we could use our peat? That is a natural resource we have an abundance of here in Ontario.

5:50 p.m.

Hon. Mr. Walker: I heard that somebody is using peat moss.

Mr. Andrewes: In the automobile? I do not want to usurp your role in terms of answers.

Hon. Mr. Walker: You are the aficionado when it comes to energy here.

Mr. Andrewes: The greatest potential in peat would be for production of methanol which can be used as a transportation fuel and to generate some other form of energy, possibly electricity.

Mr. Swart: I was really meaning just for a fuel, but it does have an application.

Mr. Andrewes: Oh, yes, definitely.

Hon. Mr. Walker: I know when I was in Correctional Services we were going to put a methanol plant in our jail down in eastern Ontario, just dig a hole in the ground and put our garbage in there and create the necessary fermentation, have a plastic top over it and then attempt to siphon it off, which is not dissimilar to what is being done in China. There are thousands upon thousands of little tiny backyard plants to provide the necessary gas.

We were all set to go on that until it was suddenly drawn to my attention that all we needed was to have some inmate throw a match in there and he would blow up the entire institution. We concluded that was a prospect which was more highly likely in our area than it might be in China and we decided that it was best not to have one of these too close to an institution or we might have one fewer institution.

Mr. Swart: As a matter of interest, one of the old garbage dumps has the pipes coming out in an area which is now a park. The credit union is close by and it found the whole basement just ready to blow up.

Hon. Mr. Walker: What they should do is tap that stuff and run it through their furnace.

Mr. Swart: Yes, a fellow comes around. On this matter of safety in the use of propane, do you have regulations now with regard to propane stations and how strictly are they enforced? I know we have some stations down our way and I see them being fuelled. As a person who uses propane for a trailer, I know that there can be real hazard. For instance, where a large propane tank in a park had the nozzle knocked off and it lit up, I have seen an almost unbelievable jet from that. Therefore, I have some concern about the safety of these propane stations.

In the Niagara region, the regional police use propane and taxis use them. I would like to have some assurance that there are adequate safety measures. It is something kind of new and I would like to know that these are being enforced.

Mr. Yoneyama: The existing facilities are only equipped to do the transfers as the propane cylinders or tanks are mounted in the service station area for fleet use. We do have several on a sort of an empirical basis for the development of standards which we are assisting in developing for the industry. These are well under way, and I am hopeful that those standards can be adopted under the Energy Act as part of the regulations. I am hoping by the turn of the year to have something on the books as far as regulations are concerned.

Mr. Swart: Can I have a supplementary? Do I understand that at the present time there are no regulations under your ministry with regard to this, or did I misunderstand you? You are developing regulations. Are there none at the present time?

Mr. Yoneyama: There are regulations existing, but those are for the tanks that are situated in the province. What we have to develop is a method of dispensing that propane into vehicles. It is not a case of just having a storage tank; we must also ensure that the dispensing unit associated with that tank is properly looked after.

Mr. Swart: So there are no regulations on that aspect of it at the present time, but you are developing them.

Mr. Yoneyama: That's right. We are a bit behind on the regulations.

Mr. Swart: The transfer can be a fairly dangerous operation if it is not done carefully.

Mr. Yoneyama: That is right. The double safety, as I would call it, has to be looked at very carefully. If we do have a runaway situation, then the pressure at the dispensing unit must shut off. Of course, at the nozzle the safety is already there.

Mr. Williams: Continuing on this point if I might—and you may have touched on this briefly while I was out of the room for a moment or two—as we know, the Ministry of Transportation and Communications is involved in a very ambitious project where they have outfitted a number of commercial vehicles from different private companies with propane-operated engines. I guess vehicles from Bell Canada, CN and a fleet of our own vehicles have been outfitted.

Hon. Mr. Walker: Simpsons.

Mr. Williams: Simpsons have. I think Work Wear Corporation of Canada was the first in the field on this experimentation project. Were your people involved in all those retrofits, if that is the term to use, of those vehicles for this particular project?

Mr. Yoneyama: Yes, not in the actual conversion but to ensure that those who were converting from gasoline to propane were competent. We had quite an input with the Ministry of Colleges and Universities to train people.

Hon. Mr. Walker: You realize that the Ford Motor Company is putting out a car this fall that—

Mr. Williams: Two of their line. I mentioned that in the House the other afternoon, as a matter of fact, in speaking to one of our fuel bills and the switch to propane.

While this is an expanding field of your particular operation, I gather at this point it is going to require the training of many more fitters and mechanics who are well qualified in this field because it is in its embryonic stages now, is it not?

Mr. Yoneyama: Yes, that's right. One of the other problems that is facing us is whether we have enough manpower out there. At the moment, because it is a fleet operation, you can do it by key or card lock or whatever system.

Mr. Williams: I do not understand that. What do you mean by key or card lock?

Mr. Yoneyama: The dispensing of propane.

Hon. Mr. Walker: What he means is a card

that gives you access to the machine. It is a little plastic card like a credit card. You stick it into a machine to get access.

Mr. Williams: Access to what?

Hon. Mr. Walker: To the machine. It is like a key. In some buildings, you can get in by sticking a little plastic card in a slot. It is the same kind of thing that you use in the machine. That allows you to draw the fuel.

Mr. Williams: Like the central tank for fuelling the vehicles?

Mr. Yoneyama: If I may make one comment, one of the other safeties that we must keep in mind is the uniformity of nozzles to the propane tank. It is different from the present gasoline tank. You just cannot have a slip-on type of arrangement. It has to be uniform.

Mr. Swart: With left-hand threads on it or something?

Mr. Yoneyama: It is interesting you mentioned that. The left hand sometimes is—

Mr. Mitchell: May I draw your attention to the clock, Mr. Chairman?

Mr. Chairman: Thank you, gentlemen.

Mr. Swart: Just on the matter of procedure for our next session, I would like to spend a little time discussing the building code with particular reference to the matter of urea formaldehyde foam insulation. I mention this so that the minister could perhaps have an appropriate person here.

Mr. Mitchell: So would I.

Mr. Chairman: You will have the chair tomorrow, Mr. Williams, so you will have to do a little dancing.

Mr. Swart: How much time do we have left on this item?

Mr. Chairman: Perhaps a half hour or so with its usual elasticity. We have purportedly used 40 minutes.

Mr. Swart: Out of two hours?

Mr. Chairman: Out of two hours.

The committee adjourned at 6:03 p.m.

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From the Ministry of Consumer and Commercial Relations:

Simpson, R. A., Executive Director, Business Practices Division
 Yoneyama, H. Y., Executive Director, Technical Standards Program



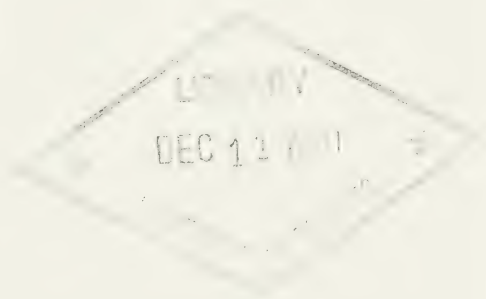
Ontario, LEGISLATIVE ASSEMBLY

No. J-17

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Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of Consumer and Commercial Relations



First Session, Thirty-Second Parliament
Friday, November 13, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, November 13, 1981

The committee met at 11:32 a.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

The Acting Chairman (Mr. MacQuarrie): Shall we come to order then, gentlemen, with a substitute chairman? I have a list of speakers here on vote 1503, item 5, fuels safety.

On vote 1503, technical standards program; item 5, fuels safety:

Mr. Mitchell: I guess my concerns have come about because of the very rapid conversion of service stations to self-serve operations. Frankly, as a consumer, I find it a retrograde step that they are taking the word "service" out of service station, but that is not the basis of my question.

The basis of my question is the controls that are exercised within the ministry to ensure that all possible safety precautions are followed within the self-serve operations. I hear stories that there are automatic shutoff valves, I hear a variety of things being stated by the industry as to what is there, but I would like to have some idea from the ministry, through Mr. Yoneyama, as to just how carefully that is monitored.

Mr. Yoneyama: I guess the self-serve concept goes back to the question of marketing procedures. When this concept was first introduced to us, we met with the industry people, as well as the independents, on the question of safety. The initial concern, of course, was the dispensing nozzle. We concentrated on that device and took a survey of attended stations, inasmuch as the self-serve ones were not here at that time.

Our survey indicated that, despite our strong push towards the employers setting out their own safety procedures for the attendants to follow, it was extremely difficult to enforce them. Among the problems we were encountering, unfortunately, were smoking while dispensing gasoline and car engines not being shut off.

As a result of the survey and because of the push from the marketing standpoint, we proceeded to develop a better dispensing nozzle; we also relied on the fact that if the customer

was filling the gas tank, he or she probably would not overfill the tank, which was one of the other concerns we identified during our survey.

We then progressed towards how we would control the actual dispensing of the gasoline by John Q. Public and, as you are all aware, the kiosk computer concept was introduced. We had several installations put in on a sort of empirical basis and monitored those through the private sector.

We spot checked and our experience has been that from the safety standpoint we were not getting as much spillage on the ground; the self-locking device on the nozzle was functioning; the accuracy of volume dispensed improved. Over the years we have written into our regulations under the Gasoline Handling Act that when any repairs are to be carried out on existing facilities, we will then register these contractors and put the onus on them to ensure that whatever repairs were being done were being done in the interests of John Q. Public.

This was followed by some concerns about underground gasoline storage tanks developing pinhole leaks. Again, as a result of some of the incidents we had read about in conjunction with the Ministry of the Environment we launched a pretty heavy program, especially in the self-serve stations, and developed another procedure, followed by regulations, for new installations to install a system whereby if there was any gasoline leak it would be immediately identified. This was followed by another set of regulations on a retroactive basis—and I certainly do not promote retroactivity, but in the cause of public safety we are asking for all tanks to be removed over a period of time and replaced with fibreglass tanks and also for some mechanism of being able to identify pinhole leaks in underground tanks.

So, Mr. Mitchell, by comparison to the survey we did initially, our experience over this period of time is good. If we talk in terms of numbers—I am now talking about the period of the survey—we obviously do not have as many self-serve stations as we did the attended stations.

One of the complaints we get is that the automobile is no longer getting its windshield washed and the oil is not checked. This is true,

but I think the public still has access to attended service stations and it is not too difficult to provide some courses, which some of the colleges are now putting on, to have the public participate in maintaining their automobiles.

11:40 a.m.

So, the thrust at the moment is to continue with our self-serve operations and try and stay on top of any incidents as best we can.

Mr. Mitchell: Mr. Minister, to get back to a couple of points Mr. Yoneyama has raised. One of the last points you raised was that there are still service stations with full-service facilities available to the public. I would suggest that municipalities today have no authority to limit self-serve stations. They can limit the number of service stations operating within a municipality, but they have no authority to limit self-serve per se.

I stand to be corrected, but I am only aware at the moment of one province that has gone completely against the self-serve concept. I suggest that if the freedom is there to convert to self-serve, while the self-serve operations were originally designed to be something of benefit to the public—for instance, they sold at a lower price because they were not having to pay attendants—eventually if we reach that point of every station being self-serve, that price saving to the motorist will not be there. That is basically a comment.

You mentioned the pumps and the spillage. I realize in self-serve installations you have had removed from the nozzle the locking device which in full-service service stations they have to use when they are filling a gas tank. Yet I drive to and from my constituency every week-end and I have seen spillage in both self-serve and full-service stations. Last week, at a full-service station very close to here, I was standing in a puddle of fuel when I got out of my car.

My concern is the kiosks that are established at self-serve stations. Some of them are located on a pump island; others are located in the remnants of what was the office of the full-service station. I find they are going to tinted glass because of the summer weather. I find many of those kiosks are well sealed in as a protection for the operator because of the possibility of theft and so on. Some of them seem to be relatively soundproof.

There are regulations which say you will shut off your car engine while you are fuelling and a variety of things like that. But I suggest to you

that in a great many instances the operator in those kiosks cannot see or hear exactly what is happening.

I guess really what I am trying to find out is the inspection process that is carried out, or the monitoring that is carried out. I would appreciate as well any comments you might have as to whether you have some of the same concerns I have and whether you are looking at possible improvements to it.

Mr. Yoneyama: Yes, Mr. Mitchell. I certainly share those concerns with you.

On your first point of the economy of scale concept: again, the survey indicated that unless the volume of gasoline sold by a full-service station was high, the threat of having to close down was very prevalent. This again helped the trend towards the self-serve concept.

As to the spills you referred to, I am not suggesting for one moment that we have the major oil companies and the independents and their respective employers and employees trained to the point that we can guarantee a 100 per cent no-spill record.

I hope when you saw that spill there was no one with a source of ignition around.

Mr. Mitchell: As a matter of fact there was.

Hon. Mr. Walker: You put the cigarette out, did you?

Mr. Yoneyama: You can do that.

Mr. Mitchell: I did not have it.

Let me just interject at this point, Mr. Yoneyama. Believe it or not, at one of those self-serve stations—not in this province, but in one of them in my travels—there was a fire department vehicle filling up while the guy driving the vehicle was smoking a cigar—and this is a fireman.

Mr. Yoneyama: What comment can I make, sir, on that?

Mr. Mitchell: I had a few words with the fireman, I must tell you.

Hon. Mr. Walker: We can legislate that out.

Mr. Yoneyama: Let me just comment on the spills. Mr. Mitchell, I can only comment that perhaps our enforcement through the private sector in our monitoring concept appears to be working satisfactorily. But on the last point, my wife has been filling up my family car with gasoline. I believe there are—

Mr. Haggerty: Is it a Cadillac?

Mr. Yoneyama: If I told you what I was driving, you would be a little disappointed. It is a Honda.

Mr. Mitchell: That is understandable, Harry.

Hon. Mr. Walker: What do you expect?

Mr. Haggerty: What does the minister drive?

Hon. Mr. Walker: I have a 1970 Ambassador.

Mr. Haggerty: That is an antique.

Hon. Mr. Walker: Yes, but that is what I drive all the time.

Mr. Swart: It is a fuel guzzler too.

Hon. Mr. Walker: Yes, it is—and my wife has a 1975 Mercury station wagon.

Mr. Haggerty: Another gas guzzler.

Mr. Swart: We will not pursue that one.

Mr. Yoneyama: Anyway, I was just going to say, Mr. Mitchell, that there are "No smoking" signs posted on the islands and I am not too sure if there is another sign that says, "Shut off the ignition."

Mr. Mitchell: Yes, there is.

Mr. Yoneyama: Okay. I do not know how much more I can do to get the independents and the majors to educate the people operating the kiosks and the computers in them. We can take another stab at it and make another run at them and draw these points to their attention.

Mr. Mitchell: It is the visibility factor.

Hon. Mr. Walker: One of the legitimate questions we might pose though is what has been the incidence of fire? There might be lots of instances of spills, as those can happen because of something to do with air in the system. I used to be a gas jockey and every now and then I would get a face full of gas because I was down listening for the gas gurgling up and it would gurgle up faster than my hearing could cope with.

But how many times have we had a fire, or an explosion?

Mr. Swart: You really have not progressed much from that profession—gas jockey.

Hon. Mr. Walker: Yes, see what happened.

Mr. Swart: A different kind of gas, but—

Mr. Haggerty: Mr. Chairman, may I have a supplementary?

The Acting Chairman: A supplementary, Mr. Haggerty.

Mr. Haggerty: I just wanted to ask the minister, through you, Mr. Chairman, what experience have you gathered from the experience of the number of gas stations which have

been opened up in the town of Fort Erie in the last year or so? There has been a number of problems there.

Hon. Mr. Walker: All those border towns.

Mr. Haggerty: You must have been able to get some information back here to suggest changes in the handling of the self-service stations there.

One of the problems I think Mr. Mitchell has been trying to get through is the one in my area. We have a service station lot—if you could call it a service station lot—150 feet square with 36 pumps on it. It can load up with cars coming across the Peace Bridge. The fumes through that residential area are just obnoxious. There was no consideration given by this ministry or the Ministry of the Environment of the problems created by allowing Fort Erie to become a gasoline alley with self-service stations all the way along.

I have watched it to some extent and have seen young people just about old enough to pick up the nozzle filling the car up while perhaps another one would be using another nozzle to fill up gas containers in the back of car. But they are not—

11:50 a.m.

Hon. Mr. Walker: They were able to end that. That was ended.

Mr. Haggerty: Yes. That is right. You have gained quite an experience from that anyway. But the point is—

Hon. Mr. Walker: Remember our position in that we do not allow anything as it relates to the gas station itself. We do license the machinery that is used, but it is the municipality that makes the decision on the gasoline outlet and all those other things. I presume they make the decision on the number; that may be an area the municipality is silent on, but all we do is license the equipment used and make sure it is maintained in a safe manner.

Mr. Haggerty: It is pretty hard when you are dealing with some of these large gas operators when they are part of a conglomerate and the residents have to fight that type of business.

Hon. Mr. Walker: But all they have to do is fight their city.

Mr. Haggerty: They fought the city. They fought the Ontario Municipal Board and still stations appeared one after the other. It does cause a serious problem with the fumes and the

potential risk there. I do not have to tell you about the incident that occurred down there where it blew up—

Hon. Mr. Walker: The sewage station.

Mr. Haggerty: —a sewage pumping station, which was found to have hydrocarbons in it. The question arises again that with all the inspection which goes on, to my knowledge there has been no reimbursement to the municipality—and who was at fault?

Hon. Mr. Walker: But that has never been traced back directly to the gas station.

Mr. Haggerty: Oh, I remember the night I was down in the hole there; I picked up some samples and gave them to the Premier (Mr. Davis) in the House. It was gasoline, and right by Robo's Self Serve Gas Bar.

Hon. Mr. Walker: But was it from that—what is the name of that gas station?

Mr. Haggerty: Robo's. Oh, yes. When someone had the tank removed—it was an older tank—they found it was leaking.

Hon. Mr. Walker: You should get Harry to tell you the whole sequence of things we went through there in trying to determine whether or not it was the source of combustion. Believe you me, if we could have determined that, it would have made us feel content, because then at least we could have solved a now perplexing problem.

Mr. Haggerty: They removed the faulty tank and put a new one in there.

Hon. Mr. Walker: Yes.

Mr. Haggerty: They have not had any problems with it since, but I know—

Hon. Mr. Walker: You mean you have not blown up any sewage pumping stations since.

Mr. Haggerty: No, but I know of the spillage there. I know that one day when I was going to Buffalo, New York, to an environmental hearing, I came by the Gains station on Highway 3 and it was just rank with fumes. With the right ignition it could have taken off and blown up the whole city.

I suggest to you there is a lesson to be learned in the Fort Erie area: that you do not permit service station after service station with so many pumps, because there is a danger even with the larger tank trucks carrying fuel supplies in to them.

Hon. Mr. Walker: You have to talk to your city council on that question. They say how many gas stations there will be. All we do is say if

you are going to have a gas station it has to meet a certain standard of safety. That is our responsibility. But we cannot tell the municipality what to do.

Mr. Haggerty: When you get service stations with the number of pumps there were down there, the safety you do provide under the act has disappeared because it could take off, with a gasoline spill.

Hon. Mr. Walker: What is your municipality doing? I keep getting letters from your mayor, but what is she doing to solve the problem?

Mr. Haggerty: She can do nothing. Under the planning in the municipality the industry makes application for a change. There are hearings and council can say they are opposed to it, but they continue to the Ontario Municipal Board. In fact, a decision of cabinet permitted further openings of gas outlets down there. So you take—

Mr. Mitchell: To interject at this point, the municipality has no legislative control over self-service gas bars, provided they meet all the criteria of site plans, and so on—

The Acting Chairman: If they are in the proper zones.

Mr. Mitchell: —and are in the proper zones. But may I just, Mr. Chairman, through you—

The Acting Chairman: Have you finished your question?

Mr. Mitchell: No. I have one final question through the minister to Mr. Yoneyama.

The Acting Chairman: Please make it fast. My name is MacQuarrie.

Interjection: Tough chairman.

Mr. Mitchell: One other area of concern deals with—I do not want to use a particular name because it applies to a specific company, but I am talking about transmission systems that provide for fuel oil distribution to residential communities.

Hon. Mr. Walker: What does that mean?

Mr. Mitchell: Public fuel transmission facilities.

Hon. Mr. Walker: You mean tank trucks?

Mr. Mitchell: No, underground services. My concern here has to do with leak-detection equipment and whether we have reached a point where we are satisfied that there is an accurate leak-detection device to monitor these underground facilities.

Mr. Yoneyama: As you are aware, in your area we had some difficulty in advocating the

principle of fuel oil leak detection. Why? Because the system was so sensitive we were picking up leaks in the soil which were estimated as being five or six years old. In that particular instance, the earth had to be removed from the entire transmission system, which is a pipeline basically, and I guess the company funding it finally felt it was better to not proceed with that.

We are back to underground tanks now and with fibreglass being used, I have to say the cathode detection system appears to be working. I have no record to date that one has failed on us.

On the other question on comparative statistics on fires between attended stations and self-serve, I really do not have any numbers. There have been three that I know of in the last 15 years, but one was as a result of—I should not say these things—a trucker sticking a nozzle in the underground tank and then bobbing off for coffee. He was filling the wrong tank and he had an overflow.

Our record has been good. I will have to check with the fire marshal's office and get some statistics on that.

The Acting Chairman: Mr. Williams, then Mr. Andrewes, Mr. Haggerty and Mr. Gordon.

Mr. Swart: Just on a point of order. How much time do we have left in this particular two-hour item?

The Acting Chairman: I might have to start rationing time. We have used 65 minutes, we have 55 left.

Mr. Swart: Oh, we will be going then until one o'clock. I would just like, on a point of order, to have some time for the building code.

The Acting Chairman: Mr. Swart had given notice that he wanted to discuss urea formaldehyde foam under one of the items, item 7 was it?

Mr. Swart: We will be going until one o'clock, so we will see.

The Acting Chairman: Perhaps we could, in the balance of our questions, handle this item as quickly as possible. It looks as if we have 55 minutes left on this vote.

In so far as item 5, fuel safety, is concerned, do all those I have named—Williams, Andrewes, Haggerty and Gordon—wish to speak?

Mr. Haggerty: Mr. Chairman, some of my questions have been partially answered. I will pass to Mr. Swart if he wants to get in there.

Mr. Swart: I think we will get it all in. I just wanted to bring that up at this time.

The Acting Chairman: Let us move on as quickly as possible.

Mr. Williams: I have some questions in a couple of areas, both of which were touched on to some extent in the questioning this morning and yesterday as well. Staying, for the moment, with the related subject of service stations, self-serve or otherwise, I think Mr. Mitchell commented or raised some question with regard to underground storage tanks. I am not sure whether that was developed in any depth.

As I understand it, there has been a study going on in co-operation between the Ministry of the Environment and the private sector petroleum association with regard to the upgrading or removal of underground gasoline storage tanks. I am not clear where we stand with regard to that study, or as to any new criteria which may have been established.

A year or two ago a number of questions were raised in the House about apparent leakage in underground storage tanks in some service stations which was contaminating the water table in the Kingston area, as I recall, although I think the study was probably going on well before that particular incident. Could you update me and the other members of the committee as to where we stand in that regard and what the objectives of this study are in so far as developing new standards?

Hon. Mr. Walker: I think it has gone beyond the point of study. There is a program afoot to replace the unprotected steel tanks.

Mr. Williams: What do they mean by "unprotected steel tanks"? If they are underground, they are all protected in the sense of being corrosion resistant.

Hon. Mr. Walker: The corrosion resistance is not perfect. Coming up with heavy-duty coating is a much better approach. The lifespan of the unprotected tanks is thought to be around 17 or 18 years, so there are bound to be leakers from time to time. We had a few leakers in 1979 and a few more in 1980.

It is all these pre-1974 tanks that present the problem. The after-1974 tanks have been properly coated to provide a pretty fair measure of corrosion resistance. Our ministry has been working extensively with the Ministry of the Environment and the petroleum industry for

four years to come up with a mutually acceptable plan for dealing with those 1974 tanks, and we are talking about millions of dollars in cost; it is a \$150 million program. Our proposed plan calls for the removal and the upgrading of all such tanks by the end of 1990, so it will be a gradual process.

Mr. Williams: Just as a matter of interest, how do they upgrade an existing tank short of removing it and replacing it?

Hon. Mr. Walker: It is precisely that, replacement with the post-1974 tanks. The new tanks, those from 1974 on, are good tanks and have a very long life. How long would you say, Mr. Yoneyama?

Mr. Yoneyama: It should be ad infinitum. It is fibreglass, so it is not subject to any corrosion or attack.

Mr. Williams: I grant that they are purportedly indestructible, at least in respect of leakage and so forth. Notwithstanding that, I presume you have some procedure in place to conduct periodic site tests of them to satisfy yourself that they continue to be impermeable and are not creating any leakage problem. If that is the case, how do you conduct those tests to your satisfaction while the tanks are in the ground?

Mr. Yoneyama: That is difficult, short of digging them all up again. This is where—

Hon. Mr. Walker: There has been some mining of tanks in the ground, has there not?

Mr. Yoneyama: Yes.

Mr. Williams: Obviously you would test the soil immediately around the tank. That would be one way to pick up any evidence of seepage. Apart from that, I presume there is no real way you could do it.

Hon. Mr. Walker: One of the best ways to find out if there is seepage is from the dealer himself. Almost invariably the dealers know whether they are losing gas. They know it because they maintain a fairly careful control in order to know how much is going in and how much is coming out. They measure it in and they measure it out. If the figures do not jibe, that is the best sign of a leaky tank or of someone pilfering the stuff at night. So most of the dealers act as the policemen in this case.

When I was in the business 20 years ago, maintaining a running inventory used to be a very important feature. When the running inventory was not what it was supposed to be, then there were problems. Besides leakage, there is the question of whether something is

leaking into it. We used to check for things like water with special dipsticks which would change colour.

That is an area where a dealer maintains a very careful record. He knows whether he is losing gasoline or not. The question is, if he knows he is losing gasoline, will he speak up? That is the other side of the coin.

Mr. Yoneyama: Let me just add that the protected tank, hopefully, will remove the necessity of having to dig it up unless it is absolutely essential. In the past you really had no way of identifying a leak.

Mr. Williams: I have one last question on that particular point. Mr. Minister, you mentioned that the program for upgrading by removal and replacement of the substandard tanks with the new types you have identified had been in process for some period of time. My understanding was that it was hoped to have that program completed by the end of 1980.

I wondered if that target date had been attained, but I gather from your comments that it is still in progress. I am suggesting that we may be behind schedule somewhat. Are we?

Hon. Mr. Walker: The tanks which are highly susceptible to leakage are the very old ones. You can assume that if a tank has been in for 16 years a little fatigue may be setting into it, so there is a move afoot to make sure that those be slated for early replacement. But there are tanks that were put in in 1972 or 1973 that would still likely have a good lifespan left. The idea is to come up with a graduated replacement approach.

Mr. Williams: I appreciate it is an immense task.

Hon. Mr. Walker: It is not going to be paid for by the dealers. It is going to be paid for by the public, eventually.

Mr. Williams: Is it being done systematically? That is what I am not clear about.

Hon. Mr. Walker: Yes.

Mr. Williams: On a regional basis?

Hon. Mr. Walker: No, provincewide. I think they are doing it according to age—first in, first out.

Mr. Williams: The responsibility for the actual removal is on the oil companies themselves.

Hon. Mr. Walker: We are helping the petroleum industry to go through the process of identifying the unit and extracting it from the

ground as quickly as possible. Obviously we are relying on the industry itself to achieve this changearound.

12:10 p.m.

Gas stations have changed pretty dramatically in a period of 20 years. In any 20-year period it is unlikely that it will be one and the same gas station. That may be putting it too strongly, but it is not uncommon to have gas stations come and go; there is a lot of change. In 20 years the property may have been turned to a different use. That happens frequently.

Mr. Williams: To come to the other point, I am not concerned, so much as interested, in the alternative fuels that you spoke on at some length yesterday in very knowledgeable fashion. I found interesting your comments about your findings on your recent visit to Europe with regard to the use of propane and other liquefied fuels. These demonstration projects we are involved in are to be applauded.

The point I wanted to make while you were, rightfully, boosting the use of propane on a broader base, is that if the recommendations of the Ontario hydrogen task force are implemented, the government will create an Ontario hydrogen development agency. With the mandate recommended to be given to that agency I am very optimistic that we could see a total replacement of the use of conventional gas in transportation by the end of the century.

It is very exciting. If that agency is put in place, a lot of their research and development would be directed towards the development and perfection of internal combustion engines, gas turbine engines or other units that would be able to adapt to the use of hydrogen as fuel.

I am not sure whether your ministry, through this particular branch, would become immediately involved with that undertaking if it is put in place. The technology, once it is developed, would have to incorporate safety considerations in installing such units on rolling stock. To date that has been one of the greatest deterrents to its development on a commercially viable basis.

I understand the storage aspect of the development of hydrogen for transportation purposes is a constraining factor because we have not been able to develop portable containers for small vehicles. That seems to be a major problem. I presume your people would be involved to some extent in ensuring that whatever they develop through their research and development would meet the needs of your ministry from your particular perspective.

Hon. Mr. Walker: Of course you are right about our ministry involvement. However, we do not even regard it as a consideration for years to come. Hydrogen: A Challenging Opportunity, the summary report of the Ontario hydrogen energy task force to which you made reference, says, "With the substantial uranium reserves of Ontario and the success of the Candu program in providing relatively low-cost electricity, the availability of competitively priced hydrogen beginning in the period 1990 to 2000 is projected for Ontario."

So what we are saying is that we will not likely be called on to get too involved until 1990 or 1995, at least. The beauty of the other substances I spoke of, and I guess I really was not carrying a brief so much for propane as merely identifying an additional source that has not been too often referenced, CNG, compressed natural gas, as also an alternative to propane.

The beauty of compressed natural gas and the beauty of propane are that they are here now and right this minute. In my city, London, I can identify three locations where they convert to propane and we are going to see another few places starting before long where they convert to compressed natural gas.

That being the case—you mentioned some yesterday, Simpsons converting to propane—that is why we are directing more to those; not to downplay hydrogen, just to say that the state of the art, the technology at the moment, is such that a guesstimate would be that it is 10 to 15 years before any of us will be directly involved.

I share with you your optimism for the future, but at the moment say that the here-and-now situation tells us that CNG and LPG are two areas of keen interest.

Mr. Williams: Once they are beyond the research and development stage and start producing these units, there is no question in my mind that we have the capability to set up a very significant hydrogen component in this province for commercial use in transportation. I would assume that your people would come in at a very early stage, once a variety of types of unit had been developed, to satisfy yourselves from the safety and installation point of view that they would meet your needs and standards.

Hon. Mr. Walker: And given the requirements for transmission lines to be in place to remote centres.

Mr. Williams: That is another feature, of course, transportation.

Hon. Mr. Walker: Given that kind of thing in quantity, it is probably eight or nine years away. We are going to be doing something, but the likelihood of doing something substantial in the next couple of years is very modest, from our point of view. Although if suddenly, two years from now, we found everyone in the country using hydrogen, I will tell you we would be ready, but at the moment—

Mr. Philip: There are certain cities, though, that are already using it in their automobiles and buses, are there not?

Hon. Mr. Walker: Here in Ontario?

Mr. Philip: No, in the United States.

Hon. Mr. Walker: I cannot answer that one.

Mr. Philip: Billings has a whole small city using hydrogen already.

Hon. Mr. Walker: I did not appreciate that.

Mr. Williams: They are the ones who have really been in the forefront in developing it and I guess they do have that experimental bus. In fact, I have a picture of it here, the hydrogen bus that serves Provo and Orem, Utah. I do not know what their findings have been to date but certainly they were very optimistic at the outset.

Mr. Philip: Would it not make more sense to convert our excess energy, electricity, into hydrogen and use it locally rather than export it across the border?

Hon. Mr. Walker: I think that is the whole idea of having a source readily available to us. They just sell the excess, they have to do something with it.

Mr. Andrewes: Could I just add to what the minister was saying with respect to hydrogen? The Ministry of Energy has undertaken a five-year program with the Urban Transportation Development Corporation to develop a proper transportation vessel and they will be doing that and equipping, I think, two or three buses to again demonstrate how it can be done properly. I believe the program has been under way about half a year.

Mr. Williams: Did an announcement not come out from the Ministry of Transportation and Communications a month or so ago that they were outfitting two buses specifically with hydrogen?

Mr. Andrewes: Yes, but it is being done through UTDC. My question to the minister relates somewhat to alternative fuels and I think his ministry has some mild association with insurance companies, although they are now somewhat self-regulating. I wonder what the

position is in terms of these alternative fuels, what is the insurance companies' position in terms of safety and their obligations to underwrite vehicles using alternative fuels?

Hon. Mr. Walker: I do not have the answer to that question. We can perhaps find out. I do not have an answer for that.

Mr. Philip: Hydrogen would be the safest in technology, would it not?

12:20 p.m.

Hon. Mr. Walker: I think hydrogen has some problems. John Williams might help me a little more on this, but I think there are some spinoff problems to hydrogen.

Mr. Andrewes: We do not have a really satisfactory way of transporting hydrogen gas. We transport liquid hydrogen reasonably well, we do it all the time, but for a reasonable alternative transportation fuel we would be looking at hydrogen in a gaseous form rather than a liquid form, because it is far too expensive to manufacture in a liquid form.

Hon. Mr. Walker: The next safest to that would be, in my limited experience, compressed natural gas and the next to that would be propane and the next to that would be traditional gasoline. The lowest in safety is gasoline and gasoline in Ontario is pretty safe.

Mr. Philip: One of the problems with gasoline is that if you do get an explosion the gasoline spreads all over the place. If I were going to be in an aeroplane crash I would much rather be in one that was fuelled by hydrogen, provided I was not directly over the fuel tank, because it burns clean; it burns very much hotter but it burns up, whereas gasoline just spreads all over the place and everyone is caught up in it. From a safety point of view, I do not think you should have any problems with hydrogen.

Hon. Mr. Walker: Do not read me wrongly here. I am certainly not deprecating the value of hydrogen as a safer fuel. We have a pretty safe level in the province today with gasoline, certainly in terms of what you do at filling time, and most accidents are going to be either at filling time or in an accident where one vehicle strikes something else to cause an explosion or a burning. But in terms of filling, and there must be two million fillings a day occur, in spite of that, Mr. Yoneyama, who is head of this department and has the broadest knowledge in the area on it, can identify three fires in the last 15 years. Usually it has been related to some strange carelessness.

Mr. Philip: It is amazing, if you happen to fill up your car at one of the self-service stations, and sometimes they are the only ones that are open late at night, particularly on a Saturday evening when people tend to take part in certain liquid activities more frequently, perhaps, than on other nights, you see some of the carelessness, people with cigarettes in their mouths and things like that. It is a wonder we have not had—and we will have at some time, I am sure—a major explosion.

Hon. Mr. Walker: Yes, I would not be a bit surprised.

Mr. Philip: At least in an attendant-served gas station, you have staff who are supposedly not on the booze and are instructed in how to fill the tanks.

Hon. Mr. Walker: I wish we could eliminate the human frailty aspect of all of our operations.

Mr. Philip: Is there a fine for someone who does not turn off the motor or who smokes a cigarette when filling a gas tank?

Hon. Mr. Walker: Yes.

Mr. Philip: It would be useful, whenever there was a prosecution to make sure that it got into the press and that might have an impact on the public mind.

Mr. Yoneyama: It does not have to be us, meaning the branch staff, to prosecute. The law is written in such a way that anyone can lay charges if someone is violating that particular statute.

Mr. Philip: What is the penalty?

Mr. Yoneyama: If my memory serves me right, it is \$2,000 for individuals and for corporations I think about \$10,000.

Mr. Hodgson: It is not posted right on the gas pump, is it?

Hon. Mr. Walker: Not the penalty. It states on that little yellow sign that it is an infraction to have your ignition on or to smoke, and I believe it says there will be a penalty. I think it says "a penalty" on the sign.

Mr. Hodgson: It says something.

The Vice-Chairman: That was a rather lengthy supplementary, Mr. Philip. Were you satisfied with your answers?

Mr. Philip: They are going to get me the information.

Mr. Andrewes: Mr. Chairman, am I going to get an answer to my question at some time? I am not in any great rush.

Hon. Mr. Walker: On the insurance aspect? We will try to get an answer on it, but I have no answer to that question.

The safety record we discovered in Italy, if the information we were given is correct, is that they have had no incidents of explosion or other events caused in the handling of 400,000 cars, other than a certain number and they, of course, related to certain special things, people smoking over the top of the valve, that kind of thing.

Mr. Andrewes: I had heard some discussion at some point that certain insurance companies were a little wary about carrying insurance on vehicles after the conversion had taken place. There were some fleet owners who expressed some concern to me.

Hon. Mr. Walker: I think that is simply human nature. There is a certain amount of ignorance—I do not say that in a critical way—among some corporations that would handle insurance or would carry it. It is to be understood. I am not sure I would want to have it in my car. I would think twice about putting it in. I do not think I would move to it immediately. I would want to see some experience I guess.

Mr. Andrewes: We assume that most insurance companies base their position on statistics and data they have accumulated. I just wonder if there is any information at hand that would substantiate that.

Hon. Mr. Walker: We have nothing—at least, I have nothing that I can identify—but I will try and ferret out some information. There may be some experience in the industry.

In answering Mr. Philip's question, section 11 of the Gasoline Handling Act is the offence section. It was put out in August 1979. I have the abbreviated form. "Every person who contravenes or knowingly makes a false statement or fails to carry out the instructions of an inspector is guilty of an offence and on summary conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year or to both." It is some fairly heavy stuff.

Mr. Philip: It would be worth while perhaps if that were posted in the self-serve gas stations so that people would see that as they went in to pay. It at least indicates the seriousness with which the officials, namely the ministry, view smoking or leaving the ignition on while filling up.

Hon. Mr. Walker: The sign is posted in all places on every single island on which there is a standard, like a light standard, and there is attached to it one of these yellow signs. I have

seen it so often I do not pay any attention to it now and I cannot tell you exactly what it says, other than that you are not supposed to smoke and you are not supposed to run your car. Let us take a look at that and see if future signs could be revised to include wording that is a little stronger.

Mr. Swart: With a flashing light on them.

The Vice-Chairman: Did you have a supplementary, Mr. Bradley?

Mr. Bradley: Yes.

The Vice-Chairman: We have a list of speakers down.

Mr. Bradley: Okay, let them continue and I will go on at the end of the speakers.

The Vice-Chairman: The last speaker we have down for item 5 was Mr. Gordon. I understand you want to go on the list and ask some questions.

Hon. Mr. Walker: I do know that Mr. Swart is anxious to get into urea formaldehyde, so—

The Vice-Chairman: That is item 6. We still have some speakers to go on item 5.

Mr. Gordon: I am not sure whether my question really fits into this particular section, but I would like to bring it up and perhaps it can be answered now or under one of the other sections. Essentially it is that in northern Ontario we have a real problem when it comes to self-service gas stations. It revolves around the concept of service.

12:30 p.m.

Once the temperature gets down below freezing or much below freezing, almost invariably if you drive in to get some gas and then you want to put some air in your tires, you cannot because the air pressure gauges are not working. We all know that a pretty important aspect of motor vehicle safety is having the proper air pressure in your tires.

This is a very real problem in the north. It would seem to me that either our regulations are not being enforced or there is not really a regulation that is strong enough to ensure that the oil companies provide that aspect of service. I was just wondering whether you would like to comment on that now or whether that is something that perhaps should be brought up at another time.

Hon. Mr. Walker: Do you mean the gauge will not work, or the air will not pump?

Mr. Gordon: There is no air, period.

Hon. Mr. Walker: You cannot get the air out of the pump?

Mr. Gordon: That is right.

Mr. Yoneyama: I did not know that was a problem.

Hon. Mr. Walker: What is the answer?

Mr. Yoneyama: One clarification if I may. Does that mean that the air tank is shut down or is it just that the connection has been disconnected on the inside because of the freezing problem?

Mr. Gordon: It could be either, but this has been a common occurrence in Sudbury. I have experienced it myself on a number of occasions. What you do is kick your tires at the beginning of the winter and hope that you can get all the way through the winter. It is infuriating because—

Hon. Mr. Walker: Do you not change the air on a regular basis?

Mr. Gordon: Are we talking about hot air now, Mr. Minister?

Hon. Mr. Walker: I know it is very important that tires have new air every now and then, good fresh air.

Mr. McGuigan: It is more apt to be condensation in that line that is causing the problem.

Hon. Mr. Walker: I am being facetious. One thing to keep in mind is that there is no obligation to carry air. That is a service provided by the service stations in Ontario. There is no obligation, but it seems that almost every service station—because they want to sell tires I suppose or because of other things, lubrication—carries a little pressure vessel which we license, and carry air in it.

There is no obligation on their part to provide it and I suppose we would be considered a little bit hard-handed if we went in and told them they had to do something about heating their air valves. They could say, "Well, we are just going to take it out and not have any air." The other thing to do is to carry a little gauge in your pocket or to make use of the manual gauge they have and maybe try to put your car inside the station. Of course, you are talking about self-service stations where they do not have a bay.

Mr. Hodgson: Get one of those manual pumps and pump the air into your tires.

Hon. Mr. Walker: That is what you need, a good bicycle pump.

Mr. Gordon: Mr. Chairman, if I might comment; I think we should insist they provide that kind of service to customers throughout Ontario

and particularly in the north because it is through regulation we make it possible for them to make money. They would not be into self-service in this province if we had not made it possible. That is a real savings to these people, so I do not think there should be any question about them providing that service, absolutely none. That is the bottom line as far as I am concerned.

Mr. Yoneyama: What happens if you have to put a quarter in to get air? That has been tried.

Mr. Gordon: I do not think that is the point though. I think you are missing the point when you say, "What about a quarter?" I do not know whether you are being facetious or not, but by the very fact that you have said, "Okay, we will allow self-service in the province and we will regulate it," you have made it possible for them, through regulation, to do very well.

So what are you going to do now to see that the consumers in the north are taken care of? That is my reply to you.

Interjection: The south too.

Mr. Gordon: In the south, but the problem is really essentially in the north.

Mr. Yoneyama: It is interesting that you bring this point up because I happen to carry a foot pump in the trunk of my car.

Mr. Gordon: But that is just like saying, "Let them eat cake."

Mr. Bradley: That is what they say all the time.

Mr. Swart: Talk to your minister.

Mr. Gordon: I am surprised to hear that point of view being expressed, really. It is serious problem. I will tell you why. Down here you might go out with your family for a drive and maybe you notice that a tire is very low; that is a danger. But in northern Ontario where it is way below zero and you have trouble with your car on a highway or on a back road, you could lose your life.

Every once in a while you read of a northern Ontarian who loses his life because his car breaks down—not because of the loss of tire pressure—on some back road and he freezes to death. This is no laughing matter. This is part of the overall safety program and making sure that people are taken care of in this province. I say to you I would like to see some regulation with regard to that in the future.

Hon. Mr. Walker: I suppose it is a serious concern, but what you are talking about when you impute to us the life-saving advantages we

have with free air, is that individuals do not carry spare tires. I have yet to know of an individual who does not carry a spare tire. One who does not certainly does so at his peril.

It may be that the circumstances are such that a car tire does deflate, for whatever reason. Your suggestion is that having free air with a pressure gauge that is free and working in every gas station will save the lives of people who might otherwise freeze if they go out.

If someone goes out in a car and for some reason a tire deflates and causes the car to break down or veer off the road or something of that sort, sure that is a problem. On the other hand, they do carry a spare tire to put on, I presume, so we can take some solace in that.

I do not think it makes the argument really sound to argue that we are going to save lives by allowing air in self-service stations to be completely free of impediment or ensuring the lines not get frozen. My suspicion is that the problem is there in the attendant-served stations as much as in the self-service stations. It is a free service that is presently provided.

Jim, what you are suggesting is that we presumably legislate in such a way that they have to provide a heated valve system and heated free air or heated machinery so it does not seize up in the cold period of the year.

That is an interesting and fairly onerous something-or-other to put on people when they are providing a fairly free service. I am trying to think of a parallel; I cannot come up with a parallel. But I suppose one could argue the same thing about providing water to wash the windows of the car, because that is part of the old, traditionally free, service; or maybe even checking the oil to make sure that the car does not run out of oil halfway between Armstrong and wherever.

Mr. Gordon: Mr. Chairman, just one point—

Mr. Swart: On a point of order—

The Vice-Chairman: There is a point of order.

Mr. Gordon: On a matter of personal privilege—I have been around this House long enough.

Mr. Swart: We are going to run out of time.

Mr. Gordon: As a matter of personal privilege, I feel that the minister misunderstood my argument—inadvertently, mind you. I took a worst-case scenario to illustrate the worst that could possibly happen; someone might lose his life. But the point I am making here—and this is a philosophic question but it is one we should

think about—is that if we give people a licence to print money, we have an obligation to see that they provide certain services in return. That is my point.

The Vice-Chairman: Mr. Bradley, before you came in, it was agreed we would allow some reasonable time for item 6. I would like to reserve the last 15 minutes of the session today for the building code item.

Mr. Bradley: In the interest of that, I am prepared to not speak on this item. I would be more interested in the UFFI one.

The Vice-Chairman: Are there no other questions with regard to item 5?

Item 5 agreed to.

On item 6, building code:

The Vice-Chairman: Mr. Swart had indicated that he wanted to raise some questions with regard to this item.

12:40 p.m.

Mr. Swart: I have a number of questions I wanted to raise on it, but the most important one was with regard to the absence of intervention under the Building Code on the matter of the urea-formaldehyde foam insulation, both with regard to its installation and now with regard to any rules and regulations relative to removing it.

Mr. Minister, I do not think there is any question that under the Building Code Act the province has responsibility to regulate the type of insulation and can regulate the type of insulation. It can regulate the installation of that insulation. Over the years in which the urea-formaldehyde foam insulation was installed, which was, generally speaking, a three-year period, the ministry did not take any action whatsoever with regard to, one, prohibition or, two, regulating the installation of the urea-formaldehyde foam.

Mr. Chairman, I am conscious of the fact that generally speaking—and you can correct me if I am wrong—this province, like certain other provinces, adopted the National Building Code almost verbatim under section 19 of the Building Code Act of Ontario. However, that does not relieve the province of its responsibility in this regard.

I am sure you are aware that section 18 of the Building Code Act provides for a building material evaluation committee. I would have thought that committee or the administrator, from their knowledge of the problems that arose

almost from the time the approval was given for the installation of the urea-formaldehyde foam insulation, would have been looking at this.

Hon. Mr. Walker: By whom?

Mr. Swart: Approval by the Canada Mortgage and Housing Corporation and by the federal government under the Hazardous Products Act.

Hon. Mr. Walker: I just wanted to make that clear that you were not talking about approval by the province.

Mr. Swart: No.

There was not only the authority but the obligation to ensure that the product was satisfactory and to use all the legal means at your disposal to have investigated this and yet nothing was done. We should have an explanation of why that took place, especially as we know that in 1979 the approval was lifted for a period of time, only three or four days.

Hon. Mr. Walker: By whom?

Mr. Swart: By a senior official of CMHC.

Political pressure was brought to bear to have the permission reinstated and it was, federally.

Hon. Mr. Walker: That was on the federal government.

Mr. Swart: The federal government.

The man, in fact, resigned. It made the news at that time; that official resigned. All of this must have been apparent and your ministry must have been aware of this. It seems to me it should have triggered some investigation at that time.

I know it has been said two or three times in the House that no approval was given for the use of the urea-formaldehyde foam insulation in Ontario, and that is true. But it was not barred and, worse still, it was not inspected.

It is stated by installers and by senior people in the industry—

Hon. Mr. Walker: The building code is a positive code, not a negative code.

Mr. Swart: But it has the power to prohibit. It could be given the power to prohibit the use of urea-formaldehyde foam insulation.

Hon. Mr. Walker: Certainly our position, as you know, has not been one of aggressively not approving those who would try to argue that UFFI should be in our building code, which, incidentally, relates only to new buildings.

Mr. Swart: Mr. Minister, they have the power, and I am sure you know this, to require a building permit to be issued for the installation

of insulation. That is not done at the present time and has not been done. It has not been required.

Hon. Mr. Walker: Wait a minute. I do not want you to make statements that you cannot personally back up.

Mr. Crosbie: It may be recalled, Mr. Swart, that during the discussion in the standing committee on social development on this question we pointed out that up until January of this year it was the generally accepted view that the building code did not apply to the restoration or installation of insulation in homes, and that this whole federal home insulation program was not the type of major renovation that brought a house under the building code.

Mr. Swart: Excuse me, when you say, "brought a house under the building code," it is true, is it not, that the building code regulation could be amended, or that legislation could be amended provincially, so that this province had the power to place it could under the building code?

Mr. Crosbie: That is correct.

Mr. Swart: That is the point I am making.

Mr. Crosbie: All right, fair enough. As long as we are agreed that the code, as it at present exists and up until the time that urea-formaldehyde foam became an issue, was generally interpreted as not requiring a building permit for the installation of the foam.

Mr. Swart: I do not deny that for a moment. What I am saying is, because of the dangers and problems which were apparent not just in this nation but throughout the world, the evidence was there that the building code should have been amended in Ontario so it could have been prohibited, or so that a building permit would have to be issued. It could have been policed or prohibited.

Mr. Yoneyama: Mr. Swart, I appreciate the point you raise, but let me just go back a step to where you indicated we were not doing too much. The situation is to the contrary; we made every effort. Let me go back to the Massachusetts date, which I think was 1979—

Mr. Swart: When they banned it.

Mr. Yoneyama: As the minister has indicated, our act is positive, not negative. At that time, we wrote to the manufacturers, asking them to provide us with some test data to overcome the deficiencies recognized at that time, namely, shrinkage and cracking, which were the two primary ones.

The companies came forward with another

mix, which appeared to overcome some of the cracking problems we were experiencing in the experimental installations in the laboratories. We were still not satisfied, but before we could get a final report from the manufacturers, the Massachusetts scare came up as to synergistic action resulting in various gases, one of them being identified as formaldehyde.

12:50 p.m.

In the material on record throughout the world, the question of tolerance levels for exposure time is still being bandied about. We seem to be zeroing in on 0.1 parts per million as the threshold limit.

We still do not know—let me put it in a positive way. It has been identified as an irritant, but for us to amend our regulations and statutes without the benefit of the reports from the medical people is, I think, unwise. Until such time as both the federal survey on the testing of existing homes with urea-formaldehyde is complete, in addition to the provincial testing, I do not think I am in a position to make any recommendation to the minister, or to the deputy, applying to the regulations.

Mr. Swart: Mr. Chairman, I just want to say that is totally unacceptable to us. We have the ban of the federal government, which is, of course, based on health conditions. Surely that would be enough for you or your ministry to take some action on this. I would have thought that during that period of time when there was so much controversy over this, the ministry would have done something, at least, to police it, when 80 per cent of the installation— Now Mr. Ouellet is saying it is the provincial government's responsibility. There are obviously responsibilities in both areas.

Mr. Walker: Mr. Ouellet is not saying it is the provincial governments' responsibility.

Mr. Swart: I can give you a newspaper clipping on this matter of policing. They said they did not police it.

Hon. Mr. Walker: Mr. Ouellet said, in September, that the door was still open to technical and financial assistance, but that he must await the results of the testing program and the board of review expected around November 30.

Mr. Swart: Did you not see his statement towards the end of October?

Hon. Mr. Walker: There is no doubt that he would like to—

Mr. Swart: He said this is a provincial

government responsibility, that the provinces are to blame. He made that statement in the House.

Hon. Mr. Walker: He also made the statement back in August about the mail.

Mr. Swart: I just want to go on from there. It is estimated that 80 per cent—

The Vice-Chairman: Mr. Swart, just before you go on, Mr. Bradley had indicated that he wanted to have time to raise a question on this same subject.

Mr. Swart: Perhaps we can go on for a few minutes. You must admit we spent over an hour on fuel safety and I can tell you that this current problem is a much greater hazard than fuel safety. We had better spend some time on it.

The Vice-Chairman: I am not going to debate that with you. I just want to remind you that the agreement was—

Mr. Swart: I do not want to cut off Mr. Bradley, but the point I am coming to—

The Vice-Chairman: Just a minute. I want to remind you that the agreement on this particular vote was that we would conclude at the end of today. You are saying you want to give more time to this particular topic, and I do not want to deny Mr. Bradley the time he has asked for.

Mr. Swart: I certainly am. I want to know right now what steps are being taken to have the building code require that permits be issued to remove this insulation.

Hon. Mr. Walker: Do you think that is the right thing to do?

Mr. Swart: To what?

Hon. Mr. Walker: To remove it?

Mr. Swart: I think it is accepted that it is the best solution at the present time.

Hon. Mr. Walker: No, on the contrary. I think one of the difficult things is that in taking it out sometimes they destabilize it and make the situation worse. Would you want to inflict that upon your constituents?

Mr. Swart: Mr. Chairman, the documentation which we have—and I could quote expert after expert but we do not have time—is that the best solution is to take it out and to have appropriate treatment of the walls when it removed.

Hon. Mr. Walker: It is too early to say that.

Mr. Swart: It has been taken out already in many cases where the situation is almost as bad afterwards because no treatment was given. Surely there ought to be some regulation or

policing of the removal process. It is up to this ministry, under the building code, to do that kind of policing. You can work in inspection by the health units in the area.

Hon. Mr. Walker: You are about a month premature on your statement. You should wait for a month and then make your statements. The federal government has engaged this high-priced task force in addition to the medical investigations, and I think it behooves us all to wait and see what they are saying.

What annoys me is that Mr. Ouellet is taking so long to produce the report. I got an agreement out of him initially to do it by November 1. By the time the conference ended it was November 30 and, more recently, his reports were suggesting it might be a little later than that.

Mr. Swart: If it is a little later than that, it will be next year. We all recognize that.

Hon. Mr. Walker: That is what annoys me, because I wanted to beat the winter season. We all want to know what to do here and you have these concerns on health.

Mr. Swart: Surely the building code should be amended to give you authority for having building permits so you can apply the best possible knowledge there is at the present time to eliminate that, to clean it up, to do the sodium bisulphite treatment, which they know may not be totally successful but does a great deal to eliminate the problem.

Hon. Mr. Walker: How do you know that?

Mr. Swart: You know it if it is only from the National Research Council papers. Have you read those National Research Council papers?

Hon. Mr. Walker: There are a lot of problems in taking it out or treating it or even coming to the conclusion that it should be taken out. In some cases, I believe it might be better to leave it in, especially where it is perhaps causing no harm.

Mr. Swart: I would like to see those kinds of reports. I have reports in my office from Massachusetts, from the federal agency in the United States—

Hon. Mr. Walker: I have seen those reports before.

Mr. Swart: —and the reports which were given by experts at the hearings across Canada.

Hon. Mr. Walker: We know something about your reports.

Mr. Swart: The great bulk of evidence is that it should be taken out. I am asking you to amend

the building code so that you have some control over this now. There has been negligence on the part of the province because it was not. I am asking for it to be done now.

Hon. Mr. Walker: No.

The Vice-Chairman: I am sorry, Mr. Minister, I have to interrupt at this point to deal with two procedural matters.

First of all, with regard to this particular vote, I am not going to call the vote today. On the other hand, I am going to leave it over until Wednesday because the chairman had made a ruling that we would conclude this vote by the end of today. In the light of your request, he may be willing to extend it for another 10 or 15 minutes. I will not call the vote today because I know Mr. Bradley wants to raise a question. I will leave that open-ended, we will conclude for today.

With regard to next Wednesday's sittings, I draw to the attention to the members of the committee that three private bills have been referred to this committee by the House: Pr9, An Act to revive Bankfield Consolidated Mines Limited; Pr15, An Act to revive the Burford Lions Club; and Pr19, An Act to revive Jacinta Investments Limited.

Interjection.

The Vice-Chairman: It is not next Wednesday, I am sorry. In two weeks' time we deal with those three bills at 9:30 on Wednesday morning. The committee would convene a half hour early. The reason we have to make a decision today is so adequate notice can be sent out to the parties.

Hon. Mr. Walker: Can I suggest that you do it at 12:30 and start at 9:30 for the estimates? We could go our normal three hours from 9:30 till 12:30; then at 12:30 you could have the private bills.

The Vice-Chairman: It can be done that way, Mr. Minister. It has normally been done the other way around. I am open to the committee. I want to make a determination on it today so we can advise the parties involved with these bills.

Is it the wish of the committee to meet in two weeks' time half an hour earlier, proceed immediately with the estimates and conclude half an hour early to deal with the private bills?

Mr. Bradley: An interesting sidelight of that, Mr. Chairman, is your resolution. One of the arguments we used at the time, albeit it was a side argument in opposition to your resolution, is that we said at that time nothing could interrupt the estimates and therefore we must

proceed with estimates throughout, because we did not want to interrupt them with any other items.

The Vice-Chairman: You are quite right.

1 p.m.

Mr. Bradley: Most of the time private bills could do that.

The Vice-Chairman: The alternative is that we can refer them back to the House and tell them we have no authority to deal with them.

Mr. Bradley: We are so flexible, Mr. Chairman, and so co-operative in this committee that we could do that.

The Vice-Chairman: I have noticed that. You are prepared to waive the agreement which was arrived at to accommodate these bills?

Mr. Bradley: That is correct.

Mr. Swart: Did you say in two weeks' time?

The Vice-Chairman: It is in two weeks. For the moment I misled you. I thought it was next Wednesday, but it is in two weeks' time, but we have still have to get out the notices at the first of the week.

Mr. Swart: When you are talking about two weeks' time, are you talking about two weeks from next Wednesday or a week next Wednesday?

The Vice-Chairman: A week from next Wednesday. Do you want to rearrange the scheduling so that the committee would start a half hour earlier at 9:30 a.m. and conclude at 12:30 p.m. and deal with the private bills at that time?

Hon. Mr. Walker: There are two points before you conclude.

The Vice-Chairman: Do you agree to that as well, Mr. Swart?

Mr. Swart: I would prefer to deal with the bills at 9:30 a.m. Then at least we are not breaking the resolution and using time—

Hon. Mr. Walker: We are not breaking the resolution by dealing with them at 12:30 either.

Mr. Bradley: My understanding was that we were running the bills at 9:30 in the morning, which is certainly acceptable to us. I think that is suitable for people's schedules and so on.

Hon. Mr. Walker: Some like to slip down over the lunch hour.

Mr. Bradley: I would prefer to have the bills at 9:30 in the morning.

Mr. Andrewes: I would too.

The Vice-Chairman: All right. Then we will stay with the normal custom, advising that the bills will be at 9:30 and the estimates at the regular time of 10 a.m. Mr. Minister, you had a couple of comments before we adjourn?

Hon. Mr. Walker: The Ontario Racing Commission might normally be the subject of some discussion next Wednesday, assuming that we would flow into the theatres, racing commission and lotteries. The public entertainment segment would probably begin next Wednesday at some point in time unless Mr. Swart is able to convince his colleagues to continue for three hours next Wednesday.

That being the case, they are chock full of hearings next Wednesday. Could I suggest that perhaps they might be put over to Thursday for discussion? Traditionally, there have not been too many questions on racing, but we would

solve our problems if we could allow them to continue their hearings. If needed, it would be Thursday.

The Vice-Chairman: What did you want to do, go to item 2 first, theatres, lotteries and athletics commissioner, and then come back to item 1 the next day?

Hon. Mr. Walker: Yes.

The Vice-Chairman: We could start off then Wednesday with item 2 if that is agreed.

Hon. Mr. Walker: There may be no questions at all.

The Vice-Chairman: If that is the case, then it would be carried. But if anyone raises a question, it is understood that it will be put over to the next day.

The committee adjourned at 1:06 p.m.

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From the Ministry of Consumer and Commercial Relations:

Crosbie, D. A., Deputy Minister
 Yoneyama, H. Y., Executive Director, Technical Standards Program



Ontario

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Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of Consumer and Commercial Relations

First Session, Thirty-Second Parliament
Wednesday, November 18, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, November 18, 1981

The committee met at 10:29 a.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: I see a quorum. I understand when we left off yesterday there were two matters outstanding. I have reviewed the proceedings of yesterday with the vice-chairman and was prepared, upon his advice and my decision, to allow Mr. Swart and Mr. Bradley to go for 15 minutes on the last issue and then to follow up and finish vote 1503, items 6 and 7. Mr. Bradley not being here, would it be fair if you take 10 minutes, Mr. Swart?

On vote 1503, technical standards program; item 6, building code:

Mr. Swart: Are we referring to the building code?

Mr. Williams: You were talking about the urea formaldehyde.

Mr. MacQuarrie: I was under the impression that Mr. Swart had finished.

Mr. Swart: I understood I had used up my time and was not to be permitted. I had 10 minutes.

Mr. Chairman: That is fine. You are being permitted. Mr. Williams and I have discussed this and you are being permitted 10 minutes to wrap up. Mr. Bradley, it appears, is out of luck as he is not here.

Mr. Williams: I think that is right, Mr. Chairman. So that there is no misunderstanding, Mr. Swart, you may recall the other day, as we wound up, you said you could use perhaps another five or 10 minutes to finish what you had to say on the subject. I said I was on a time constraint based on a ruling made by the chairman and I did not want to overrule his ruling. But I have indicated to him you felt you could use another five or 10 minutes, and Mr. Bradley said he needed about five minutes to get his comments in. I approached the chairman and advised him of that request and, on that basis, the chairman is indicating he is willing to extend that time by 15 minutes. Is that not the understanding?

Mr. Swart: Far be it from me to dispute any interpretation that I was to have another 10 minutes.

Hon. Mr. Walker: We would like the answer to all those questions we posed of you and you have 10 minutes to do it.

Mr. Swart: I rather thought it was the other way around, Mr. Chairman.

Mr. Swart: My concern is with the provincial government's responsibility in the urea formaldehyde foam insulation issue with regard to the provincial lack of policing, the lack of any action being taken on the prohibition of the use of this insulation, but perhaps now more particularly on changes which we would hope the minister may be willing to apply with regard to the removal of the urea formaldehyde foam insulation.

There is no question that at the present time there are numbers of people who have taken out or are taking out the insulation on the advice of, I suppose, the best experts in the field, although there is still a lack of full knowledge about a solution. It seems to me that if the foam is going to be taken out, there certainly should be licensing of the contractors which, of course, would come under the Municipal Act.

The building code should be changed or there should be some technique requiring the municipalities to issue building permits for the removal of the urea formaldehyde foam so that it can be policed and so that tests can be made. When it is known that it is being taken out, tests should be made to ensure it is properly removed and that treatment is given to the studding and to the walls which, to the best of the knowledge of technical people at the present time, is required and does make a very substantial improvement in the amount of formaldehyde gas in the home.

There have been instances, and I have letters on this and documentation from people who have taken out the urea formaldehyde foam insulation, where walls were not washed down and there was not a clean job of taking it out, with the result that after they put in new insulation they found themselves in almost as serious a situation as they were before.

Mr. Minister, will you now take the necessary steps to require that building permits are issued so that where there is a decision by the owner to take out the urea formaldehyde foam insulation, its removal will be policed and appropriate tests taken so that the best technical knowledge is applied to prevent the further escape of gas from the urea formaldehyde foam insulation?

Hon. Mr. Walker: It is interesting that you bring forth the building code. One of the interesting examples in this whole unfortunate mess of UFFI occurred when the city of Hamilton required a building permit to install UFFI. That was challenged in the court and finally upheld in the court earlier this year. The effect of that was that by forcing the use of a building permit, they then were able to say, "No, you cannot use it." That was an interesting way of making use of the building code and allowing it to work its wonders.

Of course, we had not permitted it to be in the building code, as you know, and Hamilton took advantage of that and forced the individual who was attempting to install UFFI to not install it.

Mr. Swart: It is banned now anyhow.

Hon. Mr. Walker: That is right.

Mr. Swart: It is the issue of taking it out I am concerned about, and that is the question I am asking you.

Hon. Mr. Walker: But you spent almost all of the last day talking about the building code, and that is why I think—

Mr. Swart: Because that is where you have authority.

Hon. Mr. Walker: That is where I am saying it was rather an interesting approach.

The second aspect, I might mention to you, is that we are not really sure of the harmful effects to date; nobody is really sure of them. I happen to suspect it has a lot of harmful effects on some people—at least it creates physiological problems. It may not have harmful effects but certainly it creates problems and probably a great variety of other things.

I was in a home much of Sunday that had had UFFI installed. The people are particular friends of mine, and I was concerned about the aspect they have about whether to take it out or not. I could not say to them to go ahead and take it out. I think they have some real concerns about what happens when it is taken out because you can never remove all the vestiges of it unless you practically start over on it, and cleaning it out is some job.

Most of the homes where clean-outs occur

have to have the entire veneer removed before it can be done. If it is a brick home where most of the problems exist, because of the suffocation of it and the fact that it is sealed in there, that creates a real issue. You cannot take off all of the bricks, or at least most people do not take off all of the bricks, to remove the foam. They take off some bricks to reach under and sort of yank it out, but that still leaves some of it. When it is left there, it leaves vestiges of an unstable nature.

Nobody at the moment is 100 per cent sure of what the effects are, whether it is harmful and to what extent it is. Some of those decisions will come forward in the report of the federal task force and the federal medical task force that have been going around investigating it. We anticipate those soon. November 30 was the date scheduled for the report of the touring task force and it was to report by then. We are anxious to see that report. I think we would probably be unwise to move before we have had a chance to look at the effects of it.

Canada has banned it, but many countries have yet to ban it because they, too, are awaiting results to find out whether or not it is as bad as some would allege. I might mention that we did a survey on this just a few days ago and determined that in Denmark and Finland it is banned as not a suitable insulation, but in Germany, Holland, Switzerland, Spain, Italy, Australia, South Africa, France and England it is still being used. In Israel it is banned. In Canada it was banned in December 1980. Only three states of the union have banned it, and 47 other states have yet to do any banning.

10:40 a.m.

Mr. Swart: Mr. Chairman, my question really was not about the issue of banning. It is banned here now.

Hon. Mr. Walker: That is right.

Mr. Swart: There are contradictory views on this, but the best evidence we could possibly obtain in Canada and from elsewhere is that there is a very real likelihood that this is a serious health hazard. They know it is an irritant and they know it goes much further than that. They know some people are sensitive to it at very low levels, while other people are not.

My question relates to cases where people are going to take it out, whether we are going to police it to see that it is properly removed and whether tests will be taken to assure that the best possible job of removing it is done. I am not, at this point, asking you to comment on whether or not it is desirable to take it out.

Hon. Mr. Walker: That is a very important ingredient in the decision whether it is or is not taken out.

Mr. Swart: But if it is going to be taken out, is the job going to be done properly?

Hon. Mr. Walker: You are a great booster of the Consumer Product Safety Commission in the United States. How many times have we heard you use that? They themselves will not comment on the medical or possible harmful aspects of it. In a report in the *Toronto Star* on November 13, last Friday, there are indications from the Consumer Product Safety Commission that they would have to—

Mr. Swart: Are you aware of the composition of that commission?

Hon. Mr. Walker: No.

Mr. Swart: I am. They have made changes since Reagan has been there so that they would have an appropriate report.

Hon. Mr. Walker: Does that mean now that we can forever ignore the commission whenever you mention it in the House?

Mr. Swart: Of course it does not mean we can ignore the commission, but I think we have to know the background and all the aspects of the commission.

Hon. Mr. Walker: Don't you ever use the Consumer Product Safety Commission again as witness to your cases. I think you have just totally destroyed it.

Mr. Swart: If you want to, you can quote what the industry said at these hearings which took place here in Toronto. They said that there are really no harmful effects from it. But they have a vested interest of course.

Hon. Mr. Walker: I guess we can assume now that we can completely rule out making use of that commission, at least in so far as supporting your arguments.

Mr. Swart: I would like to think that anything I would quote would be independent. We are not quoting vested interests.

Hon. Mr. Walker: You are not going to ever quote this biased Consumer Product Safety Commission again?

Mr. Swart: I suppose people there who are from the formaldehyde interests might be independent on some other issue where they did not have a vested interest, but I suggest they are not independent on urea formaldehyde.

Interjections.

Mr. Swart: Mr. Chairman, may I again ask the specific question I asked of the minister? Where a decision is made by the owner to take out the urea formaldehyde foam insulation, is it not wise to assure through the use of the building code, under which you have power, that it is inspected and tested so that the cleanup and treatment job is done with the best technical knowledge we have? That is what I am asking.

Hon. Mr. Walker: We are going to await the federal initiative in this area to find out what they have done and where they are going. Secondly, I know you would love to get us into a position where we are paying for all of it, and I can appreciate that is a fair amount.

Mr. Swart: You would not mind spending a few dollars if you knew the condition under which those people are living.

Hon. Mr. Walker: How much?

Mr. Swart: How much under the building code?

Hon. Mr. Walker: No. How much money would you see us spending? What are "a few dollars?"

Mr. Swart: I am asking you to spend enough to change the building code to require that a permit is issued. How much will that cost?

Hon. Mr. Walker: That is not what I asked.

Mr. Swart: But that is the point I have raised. That is what I am asking you now.

Hon. Mr. Walker: I said there is nothing you would like to do better than to have Ontario, which is totally without fault in this matter—

Mr. Swart: That is not true. You are being ridiculous.

Hon. Mr. Walker: You are being ridiculous.

Mr. Swart: I am asking you to change the building code.

Mr. Mitchell: Come on now, Mr. Swart, who started the Canadian home insulation program?

Mr. Swart: The municipalities will bear any cost for the inspection, et cetera, under the building code, and it will be negligible. The building inspectors are dealing with buildings all of the time. I am asking you to give those people some protection.

Hon. Mr. Walker: You are pretty generous with someone else's money.

Mr. Swart: You know the amount of money involved is negligible in the inspection investigation.

Hon. Mr. Walker: My comment was—

Mr. Swart: You are just being silly.

Hon. Mr. Walker: No, I am not.

Mr. Swart: Yes, you are.

Hon. Mr. Walker: One of us is going to talk at a time here. I will defer to you now if you will defer to me in a moment.

Mr. Swart: I have asked my question. I would like an answer to it. Will you amend the building code?

Hon. Mr. Walker: Will you promise to await my answer?

Mr. Swart: If there is an answer to my question.

Mr. Chairman: The chair will step in and stop both of you if this does not conclude pretty quickly.

Mr. Swart: I would just like an answer to my question.

Hon. Mr. Walker: We will not be changing anything until we receive the federal initiatives, including the report of the federal task force, and particularly the report of the federal medical investigation that they are conducting. We will not be doing anything until then.

I take it what you are proposing is an unbuilding code, which is something we do not have, because you would be taking something out of a home. It would take a substantial alteration in the homes to fall within the building code. We will be looking at this matter at the time that we get our report.

The point I made earlier was that there is probably nothing you would like to do better than to have the government pay for the removal of that insulation in every single home you could identify in Ontario, and there are at least 15,000. The costs probably are in the range of \$20,000. As I said, you are pretty free with someone else's money, given that we are not one whit responsible.

Mr. Swart: Mr. Chairman, on a point of order or privilege, or whatever the case may be: I have been involved in this matter deeply now for some eight or nine months. I have never made that proposal yet. What is the minister talking about? He is ridiculous. I have never proposed the province should have to take out the urea formaldehyde foam.

Hon. Mr. Walker: I said there is nothing you would like better than to have us—

Mr. Swart: Show me where I said that.

Mr. Chairman: Gentlemen, I have reviewed the transcript of last Friday's session and it seems to me the two of you are getting repetitious. The chair is going to rule that the time is up for Mr. Swart and the minister's discussion. Mr. Bradley now has a maximum of five minutes.

Mr. Bradley: Thank you, Mr. Chairman. We covered some material the last time and, I am sure, today on this. First of all, in my view this was a federal program and the responsibility for compensation should lie with the federal government on this. Having said that, I recognize that in some provinces when the federal government does not live up to its responsibilities, as it has not in this case so far, the provinces have become involved financially and otherwise.

I believe that Quebec provided certain financial assistance to people who had been adversely affected, specifically for the purposes of alternative accommodation for a period of time while the insulation was removed, or while certain activity took place in the house to alleviate the problem that existed. We will have to see if the federal government is going to move as a result of its report, but that is one area where we might be prepared to provide some compensation or assistance to those who have to be temporarily relocated.

Secondly, we have a testing program, but I think all of us have expressed the view that the testing program to be carried out by a sister ministry, the Ministry of Health, should be more extensive and more aggressive, that should be seeking out those homes with UFFI and attempting to determine just what the extent of damage might be to the individuals in those homes. I hope that the minister might implore his colleague the Minister of Health (Mr. Timbrell) to carry out that kind of program.

Thirdly, and Mr. Swart has covered part of this territory, there is the need to explore the possibility of having more control over those who install insulation. The minister pointed out, aptly, that one of the problems has been the installation of this material; that if it is installed properly, there are far fewer cases where there are real problems than if it is installed in a shoddy manner. The minister also pointed out that if it is taken out in a shoddy manner, the problems could be even greater. I hope there will be greater control over the licensing of those who install materials of this kind.

10:50 a.m.

In this next stage I suppose we move away from your ministry to the Ministry of Revenue to explore the possibility of reassessing these homes with a view to establishing their real value. I think we all recognize that a home which has experienced problems with UFFI is almost impossible to sell in today's market. It is

difficult enough to sell a home in certain municipalities, but when those circumstances exist it becomes almost impossible.

I recognize your reluctance to compensate because you feel it is a federal responsibility, which it is, but there may be some areas where these people can be assisted. I have mentioned the possibility of assisting with temporary relocation costs, and as well there was my suggestion for obtaining a more favourable assessment for those homes. Those are the areas where I think we can be helpful to those people. I need not implore the minister to keep after the federal minister on this. I am certain he will do so for various reasons. One of them will be his genuine concern about this problem. Another will be that it is much easier to hound a federal minister who is of another political affiliation.

We will join you in imploring the federal minister to act, but without allowing you—I was going to say escape responsibility, but I will not—to completely wash your hands of this matter. You know the areas where we might move because they have been dealt with fully.

Hon. Mr. Walker: The question of licensing of the contractors has already been looked after. There is now a system in place—not through our own doing, by the way—that will resolve some aspect of it. The Canadian General Standards Board has issued a list of residential insulation contractors, which is a step in the right direction. I mentioned earlier that I had seen some newspaper advertisements recently which stated that these contractors had to be “registered”—they did not use the word “licensed”—with the federal government in order to be part of the CHIP program.

We have now received a telepost, I guess it is called, from Hull, from the federal government about this matter, from Mr. Kirkland, Department of Supply and Services, that basically indicates a list of names which have been added to the contractors listed in the Canadian General Standards Board's national certification program for residential insulation contractors. I would be glad to make this available. It lists those in London, by the way. It is a supplementary list to a larger list which I gather exists.

I see I have the whole list here. It includes Jerry's Home Insulation and Enersol Home Insulation in St. Catharines. On Welland it says here, “Welland will not be permitted to have any insulation.”

Mr. Swart: That would be insulation from you, Mr. Minister.

Hon. Mr. Walker: It is bad enough to have to put up with your gloating this morning without having that.

Mr. Swart: There are four companies in the Niagara Peninsula that were installing. I have the names of some of them.

Hon. Mr. Walker: They include A. J. Caradonna, and perhaps there are others listed here that escape me at the moment. I would be glad to have copies of that made for members of the committee who might want to review it. That process of having those people who are qualified, so to speak, under the CHIP program, along with the aspect of municipal licensing for insulation contractors—particularly with the new bill that has been in the House giving municipalities the right to license whatever they think should be licensed, providing they do not use it as a fund raiser—I think that gives the check and balance we need. It does not fully address what Mr. Swart is talking about, but at least in so far as future insulation goes, it is a useful approach to it.

We will continue our pressure with the federal government. Frankly, we think it is entirely in their lap. Not only is it in their lap from the point of view that it was their act of commission in adopting it and encouraging it and paying people a subsidy on it, which probably galls them to no end, but the other side of the coin is that we took rather overt actions to ensure that it was not part of ours.

I have a letter here from our director of building codes, sent in this case to a commercial industrial insulation consultant in Milton, dated May 8, 1979, saying, “You have written to us and we have spoken a number of times about having CGSB standard 51GP24M referenced in the Ontario Building Code,” which is the insulation. In essence, we sum up there by saying he had better get us some evidence that it is a useful thing from our point of view. We conclude by saying, “It would be helpful to our decision if we are to reference CGSB standard” such and such “to have test data on the current formulation of your product adequate to establish that it does comply with the CGSB standard.”

We took overt action basically to say that we found it an unacceptable commodity and we have indicated a number of times that our concern was that it had this propensity to shrink and crack and reduce the insulation, the tendency to break down over a time, and it had an unrealistic flame spread rating. Those were the three things that held it up. We just were not prepared to accept it on that ground.

With respect to what might be reassessed, that is not my ministry's function, but people are entitled to take their assessment notice, which they will receive in the next three or four weeks, and appeal that—I think they have until January 6 to submit their appeal—on the basis of UFFI. I think it might be very difficult for an assessment review commissioner or a higher court to address the issue, not knowing just how fully the matter is a problem. For instance, it is a problem to some people, but not to other people; we do not know the magnitude of the problem. But, given that, I would think there could be some taking into account by an assessment review commissioner quite legitimately, and I would see that happening. I would indeed hardly see a person who has UFFI not appealing it.

Mr. Chairman: Thank you, Mr. Minister. We are well past our time on that. I think by consensus it was agreed that items 6 and 7 would be voted on this morning.

Hon. Mr. Walker: Nobody has talked about upholstered and stuffed articles. That is the most important government job we have.

Mr. Swart: It is dangerous too.

Mr. Chairman: Was that not in the 15 minutes, Mr. Williams?

Mr. Williams: No, the building code was. We were hoping to finish up the whole vote 1503 by last day, but we did allow 15 minutes on the building code and perhaps we could allow five minutes for upholstered and stuffed articles.

Mr. Chairman: Five minutes on your own petard, Mr. Williams.

Item 6 agreed to.

11 a.m.

On item 7, upholstered and stuffed articles:

Mr. Williams: Mr. Chairman, I am not aware of any recent incidents of inappropriate upholstery being used in furniture or toys that are available to children, but with the greater quantities of these articles coming in from outside the country, being manufactured in other jurisdictions, I would be interested in knowing precisely how the officials in this area of the ministry are able adequately to monitor and control the sampling of the great quantities of the imported materials that are coming in that are upholstered and stuffed.

I think we are well aware that great quantities of imported goods are coming in from the Far East, particularly at this time of year in products that will be used in the Christmas market trade and sold for use by children in large measure. I

am just not sure what the practice is to maintain a high degree of monitoring and sampling and how this is undertaken. Could you enlighten me and perhaps other members of the committee in this regard?

Hon. Mr. Walker: There is a lot of self-regulation in it. The buying industry is a fairly sophisticated one, those people who buy all the time—Simpsons, Eaton's and Hudson's Bay—and there tends to be a lot of that. We have the overall regulation and the overall licensing, checking and inspection from time to time, but there is an awful lot of self-regulation. We do periodic checks through our inspectors who march into, say, a furniture store and look at the pillows and the items that may be stuffed.

It is important. We laugh about upholstered and stuffed articles—or “up and stuff,” as we refer to it—because it is a humorous line, but it is a very serious business to make sure that the material that is stuffed inside a toy doll or a pillow that comes, say, from China is a safe product and not a hazardous product, not something that might cause a respiratory problem or might cause a child to choke or might be—

Mr. Williams: It may be highly inflammable material too.

Hon. Mr. Walker: Inflammable certainly.

Mr. Chairman: Or old UFFI.

Mr. Swart: That has been removed.

Hon. Mr. Walker: Yes, we would not want that. I imagine that is pretty tough to sleep on. It is easier to remove it from the pillow.

Here is a letter from Hudson's Bay Company, incorporated May 2, 1670, dated November 6, 1981, addressed to our registrar of “up and stuff.”

It says: “In September I travelled to China as part of a delegation from Hudson's Bay Company. The objective of the trip was to research and develop products from China which would be suitable for sale in our retail department stores. I was specifically involved with the research and development of down products, that is, outerwear, sleeping bags, duvets, et cetera. As a result of this trip, several points have arisen that we would like to get clarification on.

“1. Down blends: In discussing down blends with the Chinese officials, they indicated stated down and waterfowl feather percentages were fairly accurate. For example, a stated blend of 70 per cent goose down and 30 per cent waterfowl feathers was, in fact, as stated.

“2. Labelling: If the above is correct, that is,

stated blends are accurate, would it then be correct to label 70 per cent goose down and 30 per cent waterfowl feather products as 90 per cent down and 10 per cent waterfowl feathers, using the attached chart as guidance?

"We found the quality of the Chinese down to be excellent and, therefore, we were excited about the future of importing from China. I would like to discuss the above with you at your convenience."

This is from a central buyer. I cite that letter as simply a demonstration, a week and a half ago, from the industry that they like to comply and they understand the consumer value. I have always said the best consumerism of all comes from successful merchants. There is no one who knows a consumer better than a successful merchant because he is continually in the practice of serving the consumer. Here is a case where a large company, an ostensibly successful company, has taken it on its own to check these things out carefully in a form of self-regulation and has done quite well.

In fact, we have few problems in the area. It would be fair to say we have no problems in the area, which might be a slight exaggeration, but we really have a very calm and quiet community when it comes to the area of upholstered and stuffed articles. It is because of this kind of co-operation, this kind of self-discipline and self-regulation that the industry people have, a respect for our legislation and a respect for our intentions and purposes here, that we are able to have a fairly calmed-out area. I think that is a promising kind of thing from the industry.

Mr. Williams: That is interesting and reassuring to some extent. I think it is encouraging to know that the industry certainly shows the intent, from that example at least, to comply and recognizes the importance of complying. Let me just cite an example and see what the ministry's response to this would be.

Say a whole shipload of toys came in from Hong Kong, perhaps last October or September, in order to be sent down here for distribution on a bulk sale purchase price by, say, the Bay, to all its outlets throughout Ontario. There would be hundreds of thousands of that particular toy article that might have been manufactured in Hong Kong. Now they may have some means in place of self-administering and monitoring. Maybe they pick one toy out of each hundred load, or whatever comes in, and take a sample and say it looks okay. Then they allow the distribution to all their stores.

Is that the sum and substance of it? I

understand there are perhaps little more than a dozen people on staff who are engaged in the inspection process. Would it be satisfactory to our people if a letter came in confirming that a random sampling had been done by the store officials, or would our own staff people also do a backup random inspection of the job lot consignment?

Hon. Mr. Walker: Maybe Mr. Yoneyama could discuss that specific example.

Mr. Yoneyama: Yes. The procedure, I am emphasizing, is again one of self-regulation. We utilize the toy association extensively in this particular example to try to get uniformly safe products in terms of toys on the Canadian market. Once the product is here, in addition to the officials of the association doing a check, we ourselves do a random check. We are not as successful as we are in the other areas the minister has just quoted, but we are certainly striving for safer toys to be sold on the Canadian retail shelves.

Mr. Williams: Do you do your random samplings both before and after they are on the consumer shelves? Do you do a random sampling when the shipment comes in and is in the warehouses of the retail chain that is going to distribute these, and then perhaps do them on the shelves as well when they are in the stores?

Mr. Yoneyama: We have not quite reached that sampling as they come into the warehouses, but certainly on the retail shelves. Hopefully, our discussions in the next year with the association's officials will lead us to this sort of self-regulating concept.

11:10 a.m.

Mr. Williams: Just one last question, Mr. Chairman. I gather there were around 4,400 or 4,500 samplings back in 1980. The number seems to have diminished somewhat. Does this indicate a lowering of the amount of monitoring, simply based on the fewer number of samplings, or is there some other factor we should be taking into account that would indicate you are still maintaining a high level of supervision and control?

Mr. Yoneyama: Our level of monitoring is the same. The success of the self-regulation concept in getting the associations to be a bit more responsible is what is being reflected by the numbers going down.

Mr. Williams: I see.

Mr. Yoneyama: Let me give you a classic example. About two years ago we identified a

product, which was not really unsafe but it did not meet the down and feather ratio. We took it off the market. The retailer here in Toronto immediately telephoned the main distributor in Vancouver. In turn, at eight o'clock in the morning, I had a call at home asking why their product was taken off the shelf. It was a simple case of indicating to them that it did not meet the requirements.

As a result, they took action, and we sort of fell back by the wayside because they took over and contacted all of the central distribution centres right across the country. They took it off voluntarily. That is the sort of direction I like to go. It then gives the consumers, as the minister has indicated, the respect we all strive to achieve.

Mr. Williams: I have one last question on this. Just to clarify by way of elaboration, we are relying in large measure on self-regulation within the industry. Given that they are doing that job effectively, what is their reporting procedure to you if they are doing the actual regulating in large measure, backed up by your random sampling by your own staff people? Do they have a filing procedure with you?

Mr. Yoneyama: Yes, and we will then do our own sampling and sort of compare, if you will.

Mr. Williams: Is the filing procedure for every item of this nature that comes in? Do they have to send you some type of report? Is there a reporting form?

Mr. Yoneyama: In some instances we go beyond the report. In some instances we get the actual product sent in and, at times, if there is some doubt, we will tear that product apart, so to speak.

Mr. Williams: But there is a prescribed form that the retailers have to file with you on any upholstered or stuffed article they are displaying for sale.

Mr. Yoneyama: Yes.

Mr. Chairman: There being no further statements—

Mr. Mitchell: I beg your pardon.

Mr. Chairman: Oh, I am sorry, Mr. Mitchell.

Mr. Mitchell: Thank you, Mr. Chairman. It was just basically one very quick question on "up and stuff" as a matter of edification for myself.

One goes into furniture stores or toy stores and sees a label affixed, "This item contains only new material," and so on. Where does the

responsibility lie for affixing that label? Is that a federal label? Do you have any control over that?

Mr. Yoneyama: It is a tough area, Mr. Mitchell. We have been attempting to get the co-operation of the federal people to take over the labelling of products. They suggest to us that they would be prepared to take it over so long as the province provides the manpower, which does not sit too well with me. The manufacturers, who are required to apply the label on the product, favour the provincial requirement over the federal one. I am hoping to meet again with our federal counterparts and our provincial peers to try to get some uniformity in relation to labelling of products. At the moment, the new product and the old product are under our provincial jurisdiction. There are some articles where there is a federal label, and the question of duplication is still to be resolved.

Mr. Mitchell: During the course of the monitoring you carry out, you will obviously come across items bearing this federal label which has been applied by the manufacturer. I suppose it might be a difficult question to answer, but the label says on it: "This contains new material. This label not to be removed." In the course of your own investigations to inspect the particular things for which you are responsible, have you found that label in many cases to have been applied wrongly, or would you be able to comment on that? I suppose it would be a difficult question.

Mr. Yoneyama: It is difficult. I have not been advised of any such incidents.

Mr. Mitchell: In other words, the self-regulation you are talking about appears to be working pretty darned well.

Mr. Yoneyama: Very well.

Mr. Mitchell: The industry recognizes it has a responsibility to the buying public.

Mr. Yoneyama: That is right.

Mr. Mitchell: So one could similarly assume the same as it applies to the materials for which you are responsible.

Mr. Yoneyama: Yes.

Item 7 agreed to.

Vote 1503 agreed to.

On vote 1504, public entertainment standards program; item 2, theatres, lotteries and athletics commissioner:

Mr. Chairman: I understand from reviewing last Friday's proceedings that item 2 is to precede item 1.

Mr. Bradley: Is that the censor board?

Mr. Chairman: Yes.

Mr. Mitchell: Have we carried item 1?

Mr. Chairman: No.

Mr. Mitchell: I will have some questions, but I will bow to the other side first.

Hon. Mr. Walker: I might just ask you to relegate the question of lotteries as well, if there are questions on lotteries, until probably tomorrow because we will have Mr. Simpson here again.

Mr. Bradley: Yes, I would like that, because there are some questions which arise out of lotteries from time to time, some service organizations that have problems.

Hon. Mr. Walker: I will ask Mrs. Brown to join me here at the table. Mrs. Mary Brown is the chairman of the Ontario Board of Censors.

Mr. Bradley: I have just a couple of preliminary comments, Mr. Minister, about the legislation you have put before the House, the Theatres Amendment Act, 1981. I have sat through four years of estimates on the justice committee and listened to the members of the opposition talk about changing the composition or widening the possibilities in terms of the composition of the censor board, so we are not now in a position to be critical of the fact that you have expanded it. Indeed, we, in the opposition, are pleased that it has been expanded.

11:20 a.m.

One of the initial concerns expressed by various critics in the opposition parties was that when we had a relatively few people viewing the films we did not have an adequate cross-section. Even though we felt that many on the board were very competent and were aware of community standards, it was always the feeling that we did not have the necessary amount of representation to reflect all of Ontario. Your changes in the act will go a long way to overcome that.

Of course, we want to see just what—and I will ask you perhaps as an initial question, Mr. Minister—what criteria are being used to choose the people for the censor board? We noted with some humour in the House through interjections that one of the qualifications might be political leaning. We would want to be assured, of course, that fact plays no part in your

appointments, and I am sure that you would want to avoid that kind of charge being substantiated in any way. But perhaps you could tell us about the criteria used to choose these people. Who chooses them and what are the criteria used?

Hon. Mr. Walker: We are certainly not prepared to rule out the prospect that people who might vote Liberal or New Democratic might be chosen for the board. Indeed, we think there probably would be some who might be voting Conservative who might have been chosen for the board as well. Political leanings will not become a major problem or a concern for us. We have been specifically careful to avoid any impression of that. No one has made that allegation, that is no one who understands any of it and the kinds of people chosen.

For instance, I might mention Mr. Victor Beattie and Mr. Harvey Harnick, two of the first appointments I made to the board. Both Mr. Beattie and Mr. Harnick came to us on the recommendation of the movie industry. Mr. Beattie is a Canadian motion picture distributor, a former president of Twentieth Century Fox in Canada, and had just recently retired. He comes from Mississauga. Mr. Harnick was a former general manager of Columbia Pictures of Canada.

Both of them were representative of their industry and came to us as recommendations. We felt that was an aspect of it that we wanted to have represented on the board. There are some people who were on the board. Mr. Doug Walker, who is no relation of mine, has had 13 years on the board. He was a full board member for 12 years and then went on to a part-time status. As a matter of fact, he was out for a year in between, during the more tumultuous years that we had.

Another member is Mr. Kirpal Singh Sagoo, who is a director of the Multiheritage Community Alliance, a member of the Institute of Public Administration of Canada. He came to us having been a member of the Kenya Board of Censors in Africa. He comes very well qualified.

Mrs. Patricia Jarman is married with three children, is a proofreader and executive secretary, and comes from the Toronto area.

Mr. Williams: Is she new?

Hon. Mr. Walker: Yes. She was appointed six weeks ago, or something like that.

Mr. Williams: I must be thinking of one of the other members who has been on the board.

Hon. Mr. Walker: Mr. Orange comes to us from Wyoming, Ontario. He is a director of a credit union in Wyoming and is in property management. Mrs. Roberta Johnston, from Paincourt, Ontario, is married, the mother of two high school children, and is actively involved in community volunteer work. I might say that at the moment half of the members of the board are female and half are male. We think we have reflected a good composition there.

You might have gathered from some of the names I have read that there is a certain cultural mix and a certain ethnic mix on the board. Mrs. Peggy Stevenson is married and has a daughter. She has extensive experience in public relations and in cable television, and comes from the King City area. Then there is LaVerne Fickes, married, mother of two, from Burlington, with a background in cosmetic sales. I think we are trying to present a board that is a very average one.

Mrs. Trudy Charters comes from the London area. Interestingly enough, I had never met her, but she is now living in the London area, having moved from the Toronto area. She is a mother of three and a grandmother of six and works in Birks jewellery store. That is the kind of person we have chosen.

Then there is Ms. Michèle White, a graduate of the Ontario College of Art, a painter in numerous exhibitions and an art instructor in Toronto. She is currently exhibiting with something called the Florence group. There is someone from a community that is also reflected on the board.

We have got the board to the point at this stage where we cannot do much more with it, because of that word "quorum," until the act is adjusted. If we were to convene a meeting of the board, because of the quorum requirements being 50 per cent, we would have to bring in everybody. That defeats the purpose of having a rotating board and would foul up the review hearing or sort of semi-appeal system that we have with it.

Mr. Bradley: There are some questions that arise out of what you are saying. I think we see the cross-section we have there. What are the mechanics of these people becoming members? Do these people all apply? Did somebody seek them out? Once they apply, who actually makes the recommendation to you on who shall be chosen and who shall not?

Hon. Mr. Walker: There was no formal application process, but once I made the announcement at the end of June of some

changes, we started receiving letter after letter after letter, and we now have 450 applicants. Without inviting applicants, I think we have 450 who have applied.

It seems that every person and his brother wishes to be a member of the Board of Censors. I think they rather think they are going to go up there and sit and watch a few movies like *High Noon*, *Mary Poppins* and *Superman II* and a few good movies. When they start to realize what it is they see when they go there, since half of the titles come from Kuala Lumpur or Japan or China or, in some cases, Poland, and half of them at least would be in the pornographic arena, they suddenly realize something of what they have to see, and it is quite an interesting revelation, I suspect, for them. We had many letters come in.

On the basis of the correspondence we received, on the basis in some cases of some recommendations, some of which came from MPPs—not all of them certainly, but two or three of them came from MPPs—we basically made our choices of the kind of people we were looking for. We wanted average people and, on the basis of the curricula vitae they submitted, we were able to determine average people. I am not trying to discredit anyone by saying average people. We wanted a cross-section of the community, and that is how they were basically chosen. On my recommendation the names went to cabinet and the appointments were made.

Mr. Bradley: How much do these people get paid?

Hon. Mr. Walker: Eighty-five dollars a day, plus their expenses.

Mr. Bradley: One of the real problems would be that people who could not serve are those who have permanent jobs. Would that be the case? They are viewing these during the day, I would presume, or in many cases during the day hours. So a person who has a permanent job, where he or she must be there every day, is really excluded from serving.

Hon. Mr. Walker: In part, in a sense. What we ultimately hope to get is a rotating board. At the moment they are working on a heavier schedule than we ultimately want to have. The new act will allow us to have the rotating board come into place. The idea I envisage is to have a board of five people come in for two days a month. When their two days are up there will, in effect, be a new board. So we would have them serve about two days a month.

11:30 a.m.

We would hope that the compensation or remuneration they receive would be sufficient at least to offset what they might have earned had they stayed on the job. For instance, it is not unusual to expect a high school teacher, if we were to have one, to earn something in the range of \$85 a day. That person would have to take a couple of days off to come in, if capable of doing it. The fact that it is just two days a month means that it throws it open to virtually all groups of people.

Mr. Williams: Just for clarification, as I understand it, Mr. Minister, at the present time, you have six full-time members.

Mrs. Brown: No, they are all rotating members.

Mr. Williams: The information I had was that there were seven part-time board members operating on a rotational basis.

Mrs. Brown: They are the new ones, the ones who have just been appointed.

Mr. Williams: Yes.

Mrs. Brown: The two industry representatives are also rotating.

Mr. Williams: Oh, they are.

Mrs. Brown: Yes.

Hon. Mr. Walker: There are some new people who have been put on since those estimates were printed up, at least that document you have. They went on—was it three or four weeks ago?

Mrs. Brown: Yes.

Hon. Mr. Walker: The new appointments throw your figures out; they just do not quite jibe.

Mr. Williams: That is where I was trying to get some clarification because they did not. There was one other personality who was not mentioned. Is Miss Morning still the vice-chairman?

Mrs. Brown: Yes.

Mr. Williams: What is her background? How long has she been the vice-chairman, Mrs. Brown?

Mrs. Brown: Since last September. Her background is in personnel and office administration and accounting. Her main role at the theatres branch is one of directing the day-to-day operations of the branch. She does very little screening or decision-making on the films. She fills in when I am not able to at board meetings. She makes very few actual decisions on film screening. The full-time film screenings are done by the rotating members.

Mr. Williams: I gather, Mr. Minister, by extending the board to 25 part-time members this basic system would still remain in place, but it would give more people input so that there is a broader cross-representation of thinking on what is acceptable on the basis of community standards.

Hon. Mr. Walker: That is right. The whole goal is to establish a community standard. That is a pretty tough one to do, but we have some help in that. One is the constancy or consistency that might be provided by the chairman and the vice-chairman who are full-time people. The second thing is that our guidelines—which have been drafted and are public now, and have been since July a year ago—provide us with a form of consistency. After that, we rely on the observations of the individual boards as they are composed.

Mr. Williams: I presume that part of that balancing act of getting people from different cultures and different economic strata would also incorporate the idea of people from different geographic areas of the province.

Hon. Mr. Walker: Yes. In the next batch we intend to have people from northwestern Ontario, northeastern Ontario and far eastern Ontario. We have western Ontario pretty much covered now. I could see the board perhaps going as high as 75 people at some point in time. Our first batch will probably go to 25 to 35 people to see if we can work with that kind of rotation.

Mr. Williams: I missed the rotation system as you envisage it now, with the increased membership of the board to 25. Could you just explain to me again?

Hon. Mr. Walker: Sorry, say that again.

Mr. Williams: What would be the rotation schedule that would be set up?

Hon. Mr. Walker: I am looking at two days a month as being not bad. One of my main complaints with the previous board was that, on one hand, they were civil servants in large measure. Secondly, the people had to sit through in one or two cases 10, 12 or 13 years, five days a week, 40 hours each week. You wonder how people are able to maintain their benchmarks in life when they are subjected to what they have to see there. What you see in some of those films would really cause you to be concerned about the kind of product that is being put out.

By having them come in two days a month, my goal is that for the other 28 days they will be at home refreshing their minds, talking to

people and gathering their benchmarks, their community standards. The board generates a lot of discussion. The subject comes up in discussions at picnics, parties and so on. Those people will be able to reconfirm the community standards just by that approach. We are very hopeful it will work.

Mr. Williams: Would it be structured such that the five people monitoring movies for a two-day period would not be the same five people a month later, but that you would rotate them and have different people working with each other in monitoring to avoid having an established block of the same five people?

Mrs. Brown: There is a different mixture of panels every day. Each day of the week there is a different panel screening.

Mr. Williams: I see.

Mr. Bradley: I want to ask you for the record, because this matter had been raised in the House, Mr. Minister, and I know you would want to inform the committee, whatever happened to Joe Cunningham?

Mrs. Brown: Mr. Cunningham was given notice of the surplus status of the full-time board members. Both he and the other members were given eight weeks' notice and severance pay.

In February, prior to the official statement by the minister in June, our representative of personnel and our assistant director met with the three members involved. They told them it was the government's intention to go to a rotating board. They informed them of their rights under the collective agreement, that is, once they were declared surplus, they could make application for any job for which they were qualified. They also expressed to them our concern that after censoring movies for 10 or 11 years they really had no recent experience and that we were going to give them exceptional opportunity to develop in some job in the ministry and outside the board function.

At that time, February 3, they were asked to submit a resumé and some kind of indication of what positions they might be interested in assuming or being trained for. We waited two weeks, and no one submitted any resumé. They were reminded of this by the assistant director on three separate occasions over the next two months. Finally, on April 14, it was pointed out to them that time was getting very short for training. I believe it was on April 24, or thereabouts, that resumé and a sincere indication of interest were submitted to personnel. By

this time, of course, we were into the government constraint program, and very shortly after that their positions were declared surplus.

11:40 a.m.

Subsequently, personnel has been working very closely with them. They have met with them, and I believe interviews have been arranged for the former members for positions for which they might be qualified.

Mr. Williams: Did all three apply and send in resumé?

Mrs. Brown: All three applied, but it was about two and a half months after the request had been made. The time period for training was then much too short.

Hon. Mr. Walker: I might add that we gave notice on June 26. The deputy minister sent a notice of intention to release, and eight weeks' notice was given. We indicated to those people on July 3 that their last day of work would be July 8. On July 9 all three of them were interviewed for a special job by the Civil Service Commission. Mr. Jim Walker—no relation—was successful in being appointed a staffing officer in the Civil Service Commission and was appointed August 17, 1981.

Since that time Miss Enright and Mr. Cunningham have applied for a number of jobs and have been interviewed, although in one case the competition subsequently was cancelled. There is still quite a bit of work being done. Their severance payments were made. Mr. Cunningham received severance pay of \$12,434 and Miss Enright received severance pay of \$10,684, plus their eight weeks' additional salary.

Mrs. Brown: If I might add, Mr. Minister, before they left the theatres branch I spoke with both Mr. Cunningham and Miss Enright. I said that I would be very happy to have them serve on the rotating board if it were possible, and that if they were interested they should let me know.

Miss Enright indicated that would be difficult for her because for financial reasons she felt she should have a full-time job. I suggested to Mr. Cunningham that since he was close to retirement, perhaps he could take early retirement remuneration and serve one or two days a week on the board and that I would be very happy to have him. He did not follow up on that as far as I know.

Mr. Bradley: The minister will be aware of my reason for asking specifically about Mr. Cunningham and to a certain extent about Miss Enright. During the last hearings that took place in this committee, Mr. Joe Cunningham was

most critical of the procedures of the censor board. Therefore, we want to be assured that there was no vindictiveness on the part of anyone in the matter of Mr. Cunningham's obtaining employment with the provincial government.

We recognize that certain people have a narrow area of expertise and perhaps would not fit into certain jobs, but somehow we find them jobs, and I am not saying these people are not qualified overall. You find jobs for John Smith, Lincoln Alexander, Yuri Shymko and people like that—and they might well be people of integrity and have certain qualifications—but somehow you people always seem to find them jobs.

Mr. Williams: What about Vern Singer?

Mr. Bradley: We know why Vern Singer got his job.

Mr. Williams: He was well qualified.

Mr. Bradley: We will not go into that one in great detail, but I have my suspicions why Vern Singer got his job. Certain people who were defeated candidates, and so on, seem to be able to find a job almost regardless of qualification, but a person who is very critical of your ministry has difficulty in obtaining employment. That was our concern.

Mr. Minister, I just wanted to have that background for the new members of the committee. Mr. Cunningham was most critical of the procedures of the board and Mr. Cunningham is not able to obtain further employment with the provincial government. But I am happy to see that there have been some initiatives made towards having him serve on the board on a temporary basis.

Mrs. Brown: I think extraordinary efforts were made. Under the collective agreement they have certain rights. Once they are declared surplus, they can apply for any job for which they are qualified. We were very much concerned that they receive the developmental training, which would be above and beyond what would normally be given, mainly because they had been with us a long time and had no recent other experience. I think extraordinary measures were taken to try to help them to qualify for other positions.

Hon. Mr. Walker: Certainly I have no reason to be vindictive. I was not involved in it. I did not sit on these hearings and I have no idea what went on there, apart from what some of you people have told me. Mrs. Brown was not the chairman at the time of the hearings—she was

appointed chairman on the retirement of Mr. Sims—and merely served with Mr. Cunningham at the time. I cannot see why anyone would accuse us of vindictiveness. I gather that Mr. Jim Walker was equally vocal, and his criticism may have been valid.

Mr. Bradley: That would not be my interpretation. There were some criticisms by Mr. Walker, but they certainly were not as strong as those of Mr. Cunningham.

Mrs. Brown: I would say they were just as intense. Mr. Cunningham talked a lot about the ongoing, over-the-years situation at the board, but I felt that Mr. Walker's statement was just as strong. As Mr. Walker has indicated—

Hon. Mr. Walker: Let us get our Walkers straight. Mr. Jim Walker's statement was just as strong.

Mrs. Brown: As our minister has indicated, there was certainly no personal vindictiveness on his part. I think if you were to speak to Mr. Cunningham, he would confirm that there was no personal vindictiveness between the two of us. We had a good understanding and I think a long-term mutual respect. He knew I was sincere in my offer and would be very happy to welcome him back on a part-time basis.

Hon. Mr. Walker: Mr. Jim Walker has gone on to a post in government. The three of them were interviewed for that job, and Jim Walker was the one who was successful. Today he is working in the Civil Service Commission, which is an important area for us.

In the case of the other two, given the nature of the awards, \$12,000 in one case and \$10,000 in the other, given to them when they stopped being paid, which was around August 21 last, you might say they are still on salary. While they are not working, they still have the benefit of the funds they received as a lump sum settlement at the time of their severance, and there is still hope that they will have an opportunity to get some post within government. They are certainly not in any way being discouraged by anything we might say from seeking additional employment.

We are prepared to encourage this any way we can. Mrs. Brown has gone that extra mile by asking if they would be a part of the rotating board. This gives Mr. Cunningham, especially as he is close to retirement, a good chance to take his \$12,000 lump sum and his early retirement. It will have a diminished value, of course. How old is he? Is it 64?

Mrs. Brown: No. I think he is four years from retirement. Certainly one or two days a week would supplement his partial retirement salary.

Hon. Mr. Walker: I think we are being more than co-operative and generous. There is certainly no taint of vindictiveness there.

Mrs. Brown: I would indicate, too, that there was not just the standard concern. There was a personal concern on my part because of my association with Mr. Cunningham over the three years.

When personnel took over at the time these members became surplus, I was asked to approach them to see whether or not they would consider locating outside Metropolitan Toronto if positions in the city were difficult to find. Miss Enright said that she would certainly be open to considering it. Mr. Cunningham said that he was offended by the suggestion and would in no way consider locating outside Metro. That made it even more difficult, I think, with Mr. Cunningham. That is understandable too; his home has been here for many years.

11:50 a.m.

Mr. Bradley: Mr. Minister, I must make this comment. You say you were not the minister at the time. I think Mr. Drea was. I thought—and it was not necessary this time around or we would have requested it—the appearance of the entire censor board before the committee served a very useful purpose. Sometimes nothing flows from these things and at other times there are changes.

I did not necessarily approve of some of the questioning that took place, some of the questions asked by certain members of the committee, I thought, were not the kinds of questions I would have put, nor were they put in a manner which I would have used. Nevertheless, even with all the tension that existed at that time, with the sound and fury and the attack, which in some cases became fairly personal—I am talking about MPPs vis-à-vis the censor board—ultimately, if you follow these, and I assume you are going to, when we see the changes that are being made now in the ministry in terms of film classification and censorship, the publication of guidelines, the procedures which are now down pat so we know what they are, which may have been followed on an informal basis but have now become more or less formalized, out of the exchange that took place there has been some improvement.

I would guess—and I will perhaps ask Mrs. Brown—do you feel that with the more formal-

ized procedure you are more comfortable than you were with the less formalized procedure that existed before, or does it confine you too much?

Mrs. Brown: This is something that I had tried to initiate well before the time of *The Tin Drum*. When I became assistant director, I had worked on the board for two years and I found the lack of procedures totally frustrating. As a matter of fact, we had held no board meetings at all since I joined the board until I became assistant director, which was in the December prior to *The Tin Drum*. I initiated regular board meetings and, at that time, I made the recommendation that board members fill in personal reports on the films, indicating their screening observations and their personal recommendations. That was met with total resistance by the existing board. As a matter of fact, one of the board members said, "If I have to fill in a personal report and stand up and be counted, I will go to the press with this." I had met with resistance on the kinds of things I had been trying to initiate.

Hon. Mr. Walker: I guess it is natural that there would be some reluctance to change. I suppose everybody is reluctant to change. If they tried to change our caucus meetings around, there would be some who might say they did not want to have something done one way or the other. I do not treat that as a dastardly criticism of the individuals who might be involved. I think it is human nature.

One thing did flow from all of this, and it is difficult to say that the committee forced it, or it is difficult to say that the board had actually practically implemented it before, because it is all part of a process. It is fair to say that after the hearings there were some changes in the guidelines. The two opposition political parties both wanted to have guidelines made very explicit, and now we do have the guidelines.

Because it follows from Mr. Williams' question—in fact, he queried the guidelines—I think it would be opportune here and interesting for you to know what the guidelines are. I would like Mrs. Brown to tell you specifically what the guidelines are to see if you are satisfied with those guidelines giving reasons for either excluding or including, eliminating or not eliminating, various parts of the films that come before them. We shall get into that question in a few moments about what the committee expects of us and what the public expects of us. Can you review those guidelines with us?

Mrs. Brown: Yes. If I may, I have just a short

preamble. At a meeting on July 15, immediately after the justice committee hearing, my statement to the board at that time was, "Since it has been requested by at least two political parties, the chairman has requested that members discuss a first draft of a statement on the guidelines used for film censorship in Ontario." Using resource material previously distributed and their own personal experience, the board members discussed and arrived at the following consensus.

The section of current guidelines entitled, *We Do Not Allow*, should be qualified to state something of this kind: While it is necessary that each film be viewed on its own merit and guidelines do not necessarily exclude any material, the following would normally be considered to contravene community standards and are scenes for which eliminations would normally be requested:

Our statement of explicit portrayal of sexual activity could be broken down more specifically to include copulative movements, oral sex, masturbation, vaginal or anal penetration, sodomy and buggery.

The formal statement in our guidelines on sexual exploitation of children should deal with a child presented nude as an erotic object or a child under the age of 16 forced to enact specific sex scenes.

Undue and prolonged scenes of violence and torture would include the violence and torture scenes, dismemberment and excessive blood-letting.

Undue or prolonged emphasis on genitalia would include close-ups and prolonged exposure of genitalia.

The ill-treatment of animals is simply as stated, but I think it is important here that it does not mean simulated ill-treatment of animals, but ill-treatment of animals for which no disclaimer is available indicating that the animals have not been actually harmed.

All board members unanimously were very comfortable with these guidelines, but I think what is important in our new guidelines is a recognition of the fact that these eliminations constitute only four per cent of what the board does. Our biggest concern and most of our time were spent on the guidelines or parameters for each of the four classifications.

With 96 per cent of the films that we screen, we simply classify them very carefully and approve them. Rather than getting hung up on our eliminations, we are really concerned about a careful definition of what is appropriate in

each of the four classifications and the age suitability for each of them. A lot more work went into the classification parameters.

Mr. Stokes: You make no reference to the language?

Mrs. Brown: Language is normally not censored. If the language is very heavy, the film will be restricted and a language warning will be placed on it. I can only remember one instance in over 3,000 films in which language was censored, and it was not language by itself, it was language in a very sacrilegious context. It was a combination of blasphemy and sacrilegious context. Normally, language would not be censored; it would simply be classified. That then is indicated in the parameters for each of the classifications. The intensity of language will determine the classification of the film.

Mr. Mitchell: I think there would obviously be no censorship in that. If one recalls the first 20 minutes of the film *Network* —

Mrs. Brown: Or *Raging Bull*.

Mr. Bradley: We are a long way from *Gone with the Wind*.

Hon. Mr. Walker: Yes, 1939 was here and gone. Having reviewed those guidelines with you, which are printed in the pamphlet I have handed out to you and which are available for each of your offices, if that is helpful, I take it there is a certain sense of support for what we are doing. Do I read that correctly from the committee?

Mr. Bradley: I think that depends on the individual. This is one of those things which is very difficult. You are a government so you must speak as a government. These kinds of questions, it seems to me, depend on a person's own background. Personally, I tend to be somewhat conservative and, therefore, certainly supportive of what has been outlined. Others in my party, and I am sure in all of the parties, would perhaps be more liberal and look at things in terms of classification.

12 noon

However, I think the one factor we do not take into consideration when we talk exclusively about classification is that somebody has to make these films. That is something that too often I think we forget when we are off on our crusades in favour of abolishing all kinds of censorship and classifying everything. Taking it to its ridiculous extreme, we could have scenes of violence that would be revolting to anybody

in this room—sexual exploitation of not just children but of adults as well, which could certainly be revolting to people in this room.

I think we always have to keep in mind that somebody has to make these films. If we simply classify, are we then encouraging the kind of behaviour that we would feel would be certainly not human behaviour, let us put it that way? I personally can support the kinds of guidelines with the necessary preamble we had from Mrs. Brown, which I think is reasonable, namely, that we do not necessarily view these as ironclad, but as areas that we must watch carefully.

I personally see that and I think it probably reflects the polls that you people take at public expense to determine how the public feels about these matters. I think it probably reflects the view of the majority of the people of Ontario. I should say, from my point of view, that there are people in my party who would be in favour of straight classification. I would be at variance with their particular point of view.

Mr. Williams: Could I just ask this question as a supplementary, Mr. Chairman? We now have these four clear-cut classifications. To what extent do they parallel the classification of standards used in other jurisdictions, primarily in the United States? Are they identical? Is there any semblance whatsoever? Within the States is the variance so great from state to state that there is really no distinct pattern that can be followed or related to?

Mrs. Brown: This is very interesting. I find it amusing sometimes when someone says, "For goodness sake, your rating is not the same as the American Motion Picture Association rating on it". I was talking to Richard Heffner, the chairman of classification and rating administration in the United States—

Mr. Stokes: Did you say Heffner?

Mrs. Brown: Not that one, the other one. We were discussing our approaches to classification. I asked him how many films they had classified and rated last year, and he said 351. I said that was very interesting because our board has classified 1,765 within the same time period. We screen and classify at least three times the number they do in the United States. Also, I believe we more actively research the standards and the acceptability of the different classifications. I forwarded to Mr. Heffner a copy of our guidelines, which he thought were quite interesting.

The other thing that is important to know is that classifications in the American system are

done by representatives of the industry and quite often films are classified with the commercial interest in mind, not the suitability for the audience. Films, like *Up in Smoke*, which are aimed at the teen-age audience are quite often rated for the teen-age audience, whereas the film *Up in Smoke* promotes drugs, promiscuity and, I think, a disrespect for the law and in terms of our board's standards is totally unsuitable for those under the age of 18.

Certainly we did not rate ours parental guidance; we rated it restricted. We did not agree with the American rating, but then I think we are representing the community and not the commercial interests of the film. Sometimes when we disagree it is because we are dealing with suitability, not the commercial thrust of the film, and I think that is very important.

Mr. Williams: Let me ask this question because I think it is important. In Ontario, we keep being told that after New York and Los Angeles, Toronto is the most movie-going town on the continent.

Mrs. Brown: I would say the Ontario jurisdiction, not just Toronto. I think we are second or third highest in box office terms on the North American continent.

Mr. Stokes: You say Ontario, not just Toronto?

Mrs. Brown: The Ontario jurisdiction. Our board covers Ontario, so we have not broken it down in terms of towns and cities.

Mr. Williams: I guess then a large percentage of that would be the Toronto marketplace.

Mrs. Brown: Yes, it would be.

Mr. Williams: You say we are third, not second?

Mrs. Brown: Second or third. I think it is a close tie with Los Angeles.

Mr. Williams: Given what washes here, so to speak, in Ontario and that it is such a big marketplace, has the significance of this ever been brought to the movie producers in the United States?

Mrs. Brown: Oh, they know. I think that is why, when an incident like *The Tin Drum* happens, the pressure to criticize and attack the board is extremely heavy, simply because we are such a big market and simply because we can affect commercial—

Mr. Williams: So they see us as an adversary here. They see the Ontario board and your responsibilities as not working in their best interests.

Mrs. Brown: Oh, yes. Someone within the industry has told me—and I cannot validate this with fact—that it seems to be the case that many films are pre-released in Ontario before they are released in the United States in order to get the reaction of the Ontario board, so they can take them back and say, “Well, the Ontario board did this to them,” and they can get the newspaper hype they need. It is the best advertising they can get if the Ontario board deals with it in any kind of a representative or strong stand.

Mr. Bradley: If it is banned in Ontario, it must be attractive.

Mrs. Brown: Yes, they get a lot of free publicity from the Ontario board's stance on some of their controversial films.

Mr. Williams: I have just one last question, if I might.

Mr. Stokes: There is commercial value in that too. “It must be good. It was banned in Ontario.”

Mr. Chairman: Excuse me, the chair has to get a little bit of structure back into this. Are you through, Mr. Bradley, or are you still in the midst of it?

Mr. Bradley: I could ask several questions, but what I want to do is to allow other members to participate.

Mr. Chairman: We do have a rule that we do not allow supplementaries unless the following speaker or the person within whose time it is being asked consents.

Mr. Bradley: I consent to any supplementaries.

Mr. Williams: I just had one further question and Mr. Mitchell wanted to raise some supplementary questions as well.

If we have such an important place in the movie industry in the sense that this is the consumer marketplace, would it be realistic to consider in any way imposing or suggesting that for this marketplace there should be some reasonable balance established, perhaps on a quota basis, of the type of film we are going to permit into our jurisdiction?

You have four distinct types of classification, and obviously the movie manufacturers are directing most of their time and talent towards the one they see as being the biggest money maker. Through whatever distorted vision they have, they seem to think it is in the restricted area.

Hon. Mr. Walker: But that is changing a bit though.

Mr. Williams: Let me just finish developing this thought in any event. Because of that, you and I and many others find it very difficult when a weekend comes along and we say to the children, “Maybe we should go out and take in a movie somewhere,” but we cannot find a family film showing anywhere in the city. One might be lucky to find one with parental guidance, but five out of six come under either adult accompaniment or restricted.

I may be exaggerating the situation, although I do not think I am far off the mark. It is almost a discrimination situation for people who do not get excited about being able to go and see these so-called racy movies and would like to take in something more conventional, at least with the standards of convention from our days.

12:10 p.m.

When you do not have that type of entertainment available to you it seems to me it is a type of reverse discrimination. If the board said to each of the film manufacturing concerns, “We are going to allow a certain reasonable quota that provides a balanced viewing situation to the Ontario audience,” is that type of approach realistic? Has it ever been considered or could it be considered?

Hon. Mr. Walker: It might be useful for Mrs. Brown to cast her thoughts to the number of movies that have been classified recently in our new categories, restricted being the original one, of adult accompaniment, parental guidance and family.

Mr. Williams: If she can shoot down the statistical situation I have developed, I would be interested to hear it.

Mrs. Brown: I would say that this is a reflection of our perception that of the theatre-going public in Ontario only 15 per cent are regular theatre-goers, according to some of the surveys done by the industry. A lot of people have indicated to me personally they are not attending films because there does not seem to be anything they really want to see. The majority of the film attendees seem to be between the ages of 12 and 29.

At the same time, I would personally be opposed to any more restrictions or any increase in the regulatory function of the board. I think eventually the industry will recognize that there is a much greater market out there of people who really love films, if they will simply provide the product these people will enjoy.

I think they are responding now. I have noticed that there is a turnaround; there are

more films coming out that are successful and are not restricted films. There are films like *Chariots of Fire*, which is family entertainment, and the new film, *On Golden Pond*, which has total family appeal and which I think is going to be very successful.

I think the industry is realizing this on its own. I would have a great deal of difficulty with being overpaternalistic in assigning quotas. I think it is going to resolve itself. I think that film is ultimately a commercial vehicle and that they are going to recognize the commercial potential for getting more films that are more appropriate for general audiences.

Hon. Mr. Walker: As Mrs. Brown has indicated, 1,765 films last year were classified, reviewed and addressed. Of the 1,765, I think 189 fell into the category of being the traditional movies you would expect to find at the local movie house in your community, the Odeons, the Famous Players and the like, the traditional movie houses as we tend to think of them.

Only 189 films fell into that category. The balance were movies you would not likely ever attend. Some are ethnic and serve a certain community, but when you take out the ethnic ones, the balance are basically what we would loosely describe as pornographic, with titles like *Kuala Lumpur*, and the *Hong Kong*, *Japanese*, and *Polish* films that cater to a special crowd and play the blue houses, as we call them.

Of the 189 films that are of the traditional movie house type, maybe Mrs. Brown could give us some idea of the numbers that have fallen into the restricted, adult accompaniment, parental guidance and family classifications just in the last two or three months since we have had this new system.

Mrs. Brown: I have the monthly reports.

Hon. Mr. Walker: Many films are falling into the new adult accompaniment category, when previously they would have been restricted because the material is slightly off colour or a little more mature, but is not such that warrants restricting it to those over 18, but merely restricting it to those under 14 being accompanied.

Here are the classifications for September 1 to 30, 1981. In the family classification, there are about 15 or so films: *Athletic Competition*; *Athletics*; *Batala Palace*; *Chariots of Fire*, which is very, very good; *Chashme Buddoor*; *Chrysanthemums*; *Do You Know this City*; *Eastern Qing Tombs*; *Fishing Song of the South China Sea*; *Girl Sea Divers*; *Land of the Brave*;

Love Story (India); *Martial Arts*; *Oriole Hall*—this is one that was named in honour of your riding and your representation there, Mr. Williams—*Sichuan Dishes*; and 2000.

Parental guidance had about six or seven more cases—

Mrs. Brown: About 30, I think.

Mr. Williams: Parental guidance is double the family classification films.

Hon. Mr. Walker: Adult accompaniment had about 30 as well. Then restricted entertainment had about—

Mr. Williams: About 230?

Hon. Mr. Walker: No, it had about 40. I will read the restricted entertainment classification: *A Nous Les Lyceennes (Italy)*; *Babylon (Britain)*; *Caligula*, with warnings on it—we attached some warnings; *Cha Cha*; *Cheating Couples*; *Close Encounters of the Fourth Kind*—that must be something about the press; *Cutter's Way*; *Day After Hallowe'en*; *Elsa Fraulein SS*; *First Time*; *Flossie*; *Helga The Leather Mistress*; *Kung Fu Executioner*; *La Dame aux Camelias*; *La Novice se Devoile*; *Le Confessions d'un Obsede Sexuel*; *Life*; *L'Insegnante al Mare con Tutta la Classe*; *Lipps and McCain*; *Love in Motel Rooms*; *La Vallee*; *Love Massacre*; *Maniac*; *Masked Avengers*; *Mystique*; *Nuits Chaudes a Bangkok*, French version from Switzerland; *Oona*; *Pit*, with warning, "Some scenes may be frightening"; *Pixote*, with warning, "Some language may be offensive"; *Prowler*; *Rich and Famous*; *Streetfighters Last Revenge*, from *Hong Kong*; *Surfacing*, from Canada; *Tattoo*; *Train Special Pour SS*; *True Confessions*.

I did not read the addresses of the other titles. I will just read them in order through the restricted part: *Italy*, *Britain*, *Britain*, *Holland*, *France*, *Australia*, *France*, *Sweden*, *Germany*, *Hong Kong*, *France*, *Italy*.

Mr. Mitchell: Just as an interjection with the titles, does the censorship board have anything to do with military training films?

Hon. Mr. Walker: Do you mean the kind provided for the *Ku Klux Klan*?

Mr. Mitchell: No, the ones provided to new recruits.

Interjection.

Hon. Mr. Walker: Do you want the spelling of all these? You just want to read them.

Mr. Williams: Mr. Minister, if I might just pursue the point further, I can appreciate Mrs. Brown's reluctance to even consider the idea of

imposing a quota system, but let us look at these statistics for a moment. You have 15 family films.

Hon. Mr. Walker: Incidentally, that is a big change. It was not too long ago that if you had a family film you would remember it and say there was one family film; about two years ago they brought one in. So that is an interesting shift.

12:20 p.m.

Mr. Williams: I remember *Sound of Music* from four or five years ago, but I cannot think of anything since.

Hon. Mr. Walker: That was 1966.

Mr. Williams: Our children enjoyed that. The *Black Stallion* was an excellent film too.

Hon. Mr. Walker: Take them to *Chariots of Fire*. I hear it is good.

Mr. Williams: That is for the first half of this decade.

Hon. Mr. Walker: Yes, that film is of the 1980s.

There is something rather interesting. I am told that the Disney films in the United States now include some slightly off-colour material just so they can get the benefit of the adult rating from the American Motion Picture Association.

Mrs. Brown: The *Black Hole* was an example of that. The Disney people took *The Black Hole* to the American Motion Picture Association for classification, and they rated it general. The distributor did not like the general rating; he thought a better commercial rating would be PG. So they took it back and put some offensive language in it and got the commercial classification they wanted.

Mr. Williams: That was strictly for commercial purposes.

I want to look at these statistics and then I want to ask you about another factor. You are showing 15 family films. You have more than twice that number of restricted films and then the balance, another 60, in between. So the emphasis is still very much weighted. I think that is quite clear. Mrs. Brown may say that is some improvement over the statistics that might have been shown in her monthly report of a year before or even six months.

Given that you have 15 family films, for what period of time would they show in the Toronto area compared to, say, the 40 restricted films? The family films are fewer in number and they also may be here for a shorter period of time. That, too, is a consideration. What opportunity is available to those people who may be a little

more selective in what they want to see in films that are not restricted? The figures themselves do not tell the whole story.

Hon. Mr. Walker: My suspicion is that it is a reflection of the market. If a movie closes down early, it is because nobody is coming to it. If a movie continues on and on, I think that is an indication that it is being well received. For instance, *Chariots of Fire* is running well and has run well here in Ontario since the middle of September. Why? Because there is a market. The theatres work simply on the basis that if the people are coming, they leave the film on. If they are not turning up at the box office, they turn the film off. It is truly a reflection of the competitive nature of the movies.

There is a movie, *Arthur*, that is still playing in London after four months. It would not be there that long if it were not drawing a crowd. It is a PG-rated film, and that is our second lowest category, or the second highest, depending on how you read it. The highest would be rated family. PG is the second least restricted category, if I can call it that. All parental guidance says is: "We are not saying you should not take your children to it. All we are saying is that if you do, the onus is on you, the parent, to realize that there may be some scenes that are not appropriate for children. The choice is yours."

I guess the only thing one can really add is that those titles simply reflect what happens to come in in a month. They reflect a lot of the pictures that you would not traditionally see, or that you yourself would not likely go to see, and the length of time they are kept there simply indicates the market that is out there.

Mrs. Brown: I think something else is going to help the situation. People I have talked to over the past few months have indicated that they have had sometimes a very unpleasant experience. They have gone to a film they thought they would enjoy because of the title and have been seriously offended by language, explicit sex or violence. It has alienated them from movies. I think we have to encourage the industry to have consistently good films. The board is attempting, by the increased use of information pieces or warnings, to let people know ahead of time what they are going to encounter in the theatre.

If a film is restricted, we will put in a warning or information piece that it is restricted because of nudity, because of language or because of violence. People will not be reluctant to return to the movies because they will know that they are not unexpectedly going to come across

material that they find offensive. It is a case of informing the public before they go to a theatre about the content of the film so that they are comfortable with it.

Mr. Williams: There is another point I wanted to touch on, which is an area over which we have no control, namely, the matter of the newspaper ads. While they show the official designation of the film, certainly the great emphasis in the display and advertising of a particular movie is towards the two most restricted categories.

Hon. Mr. Walker: I sense things are cleaning up a bit in the ads over the last year.

Mr. Williams: It is very hard in going through the films being advertised to find one that is rated parental guidance or family; they are usually not given the same prominence of display. There seems to be a sense that the real marketplace is related to the other two categories. In a sense, this discriminatory practice, which is based on crass commercialism, is working against those who would like to have a little more variety in the type of movie-going that is available to them.

I am correct, am I not, that there is no control at all over the type or manner of advertising of movies in any given chain of theatres; that it is at the sole discretion of the movie houses?

Hon. Mr. Walker: The advertising of individual movies has to be approved by the board. The size of the photograph they use in the paper is up to them. I suppose they can put a half page in if they want.

Mr. Williams: Do all the ads have to be run through the board?

Mrs. Brown: All the printed advertising connected with the films, yes.

Hon. Mr. Walker: Why are you so quiet now, Mr. Swart?

Mr. Swart: I am waiting to get on to another issue I would like to deal with.

Mr. Mitchell: I had a supplementary that was kind of slipping my mind in light of Mr. Williams' one question.

Mr. Williams: I have another one.

Mr. Mitchell: It was a supplementary with regard to other jurisdictions. I gather the Americans do it on a country-wide scale. I would like to know how boards of censorship in other provinces work, whether it is a different system to Ontario's, or whether we are reaching some form of uniformity across the country.

Hon. Mr. Walker: Ontario is the lead jurisdiction in Canada certainly as to box office receipts and also because it is, in effect, the theatres branch for many of the provinces. What we do, they simply accept in other provinces. They accept our classifications and cuts. We are, strangely enough, doing much of the work for all of Canada. There are other boards, of course, but some of the other boards simply take what we do and give it their imprint.

12:30 p.m.

Mr. Swart: Certainly many of the other jurisdictions have different laws. For instance, Not a Love Story was passed in all the other areas except Saskatchewan and Ontario.

Hon. Mr. Walker: I am glad you brought that up. Not a Love Story was picked up by five other provinces in the same way as we did it. Which provinces are you talking about?

Mr. Swart: I saw somewhere in some publication that there was only one other province. I may be wrong.

Mrs. Brown: The only province in which it is playing commercially is Quebec. Quebec is also playing the hard version of Caligula.

Mr. Mitchell: Following along on that, you mentioned that we seem to be, if you will, the model that other provinces are following.

Mrs. Brown: I think you should be very careful about that.

Mr. Mitchell: I am going by the comments made. I can think of a situation, for example, that went on year after year—

Interjections.

Mr. Mitchell: This is supplementary to Mr. Bradley's question and my own question of a moment ago. The reason I raised the question about the way boards of censorship work in other provinces—and the minister has indicated that many of them accept Ontario's judgement in the matter—is that surely there must be some differences. A case from Nova Scotia particularly sticks in my mind. You will recall that in that province a few years back there was a prolonged court case which eventually went to the Supreme Court of Canada. I do not know whether you can comment on that particular case or not. It was resolved in the last couple of years at the Supreme Court level.

Hon. Mr. Walker: That was the MacNeil case.

Mr. Mitchell: Yes, he was a former reporter, I believe.

Mrs. Brown: As a matter of fact, it was the resolve in the MacNeil decision on *The Last Tango in Paris*—and it was taken to the Supreme Court—that has been the basis of our current philosophy in our approach to film censorship in Ontario. It seemed to us that the emphasis there was placed on community standards as a criterion for public acceptability. In the past year the emphasis of our board has been on the careful research and establishment of standards as a criterion—representative standards, not personal ones. It has changed our whole approach and philosophy to film censorship.

If it is exercised in a democratic system, then it has to be as honest and as accurate a reflection as possible of the community as a whole and it also has to be responsible to the community. That is why we found it so absolutely necessary in functioning, as a result of that MacNeil decision, to give back to the community all our decisions, all our requested eliminations, and to be accountable for those decisions. It has, I think, had a very strong impact on the Ontario board. It has brought into focus, really, what our position should be.

Hon. Mr. Walker: We mention in our pamphlet that each film is judged on its own merits. It says, "Very graphic or prolonged scenes of violence, torture, bloodletting, explicit portrayal of sex or violence, for example, rape, sexual abuse, sexual exploitation of children, explicit portrayal of sexual activity, undue and prolonged emphasis of genitalia and ill-treatment of animals, would normally be considered to contravene community standards and are scenes for which eliminations would normally be requested."

I sense from Mr. Bradley a certain amount of support for that position. I would be interested in knowing if there is support from Mr. Swart on that.

Mr. Swart: I am sorry, I was reading the paper.

Hon. Mr. Walker: I read out the eliminations on the back of the pamphlet. Do you support the elimination concept that we have?

Mr. Swart: I have not read that yet and I would have to give it careful thought.

Hon. Mr. Walker: What we want to know is whether you go to Buffalo to make your comparisons.

Mr. Swart: You will have to get that information on your own.

Mr. Mitchell: What is over at those other movie houses?

Hon. Mr. Walker: Anyway, you might just want to read those eliminations to see if you can support those as written in the pamphlet. I sensed a certain amount of support from Mr. Stokes when he was here.

Mr. Mitchell: The process has been raised in the questions that have been asked to now. I had the opportunity to get to appreciate the process that is followed from the time a film arrives at your shipping and receiving area. I think it would be worth while for the committee to have an appreciation of just what the process is from the time a film arrives there—the screening process and how the board members viewing that film make notes and so on of the areas they wish to review for possible removal or whatever.

It is not an easy task, as I have come to appreciate, and I think it would be of some value to the committee to be made aware of that process. I realize time is short, but perhaps you might be able to give us an encapsulated version of what happens.

Mrs. Brown: I think we have a dual problem. One is the amount of product that is coming through; the other is that each film be properly screened and reviewed. Many of the foreign films can be screened by a panel of two or three if it is necessary, if we get into a crunch situation. Films from India, for example, very seldom have a censorship problem. That is strictly a matter of classification.

With the clear guidelines on what is appropriate for each classification, sometimes some of the ethnic films may be screened by a panel of two, so we could have parallel screenings at the same time. Each film is viewed in its entirety without interruption, and the individual members make notes on a summary or on a personal report form which has been designed and implemented in the past year. They begin with the assumption that a film is general or family entertainment until some specific scene might in their opinion jump it into a heavier category.

Mr. Mitchell: May I just interrupt at that point? If I recall correctly, there is a method within the screening room by which they can identify the particular scene they are concerned about, so they can mark the footage and so on. I cannot recall whether that was done by an indicator at the screen or whether it was a button mechanism they pushed to indicate a particular portion.

Mrs. Brown: In the 35 millimetre room, lighted numbers appear at the bottom of the screen to indicate the minute or the footage. If

they were screening reel one they might be able to identify the scene saying, "In reel one at minute four I have noted casual nudity which might put it into a PG category." They make notes then on any scenes they feel would contribute to a heavier rating than a family rating. At the conclusion of the film, they assess their own notes and assign the classification they feel is appropriate with the reasons.

At the end of the day there is a meeting of the full board. All the screening panels meet in the board room and review the personal notes and observations of the screening members. The film is discussed and the appropriate classification, according to their notes and recommendations, is assigned. Any member who has not screened the film who is at all concerned about the recommended classification may ask to screen that film before approving or upholding the recommended classification of the screening members.

Whereas each film may not be screened by every member, each film is screened by a panel and each decision is reviewed and approved by a majority vote of the full panel board.

Mr. Mitchell: If I may pursue this. They write their notes and mark a specific film. They say at four or five minutes into the film at footage so and so there were some scenes they were concerned about. At the end of the day, when that panel gets together, if there is some disparity of opinion between the panel members, I presume they could also—and it is probably done—go in and run the film through quickly to that footage point, so that—

Mrs. Brown: No. If there is a disparity, if there are concerns, if there is any kind of a grey or indecisive area, the film would be screened in its entirety by another panel of the board because zeroing in on one scene and making a decision on that is, I think, a distortion.

12:40 p.m.

Mr. Mitchell: That is what I wanted to clarify. The whole film is seen; it is never based on one or two scenes. If there is disagreement, the whole thing is done in its entirety again. Once that is done, based on what has been done within that screening and on the decision of the committee, the proper labels are affixed. No longer will you screen another reel or several reels of that same film. Once the label is affixed to the print you view, it is considered that all prints of that film are the same. Is that correct?

Mrs. Brown: Yes.

Mr. Chairman: We had Mr. Stokes wishing to speak next and he has disappeared.

Hon. Mr. Walker: Mr. Swart is going to tell us about the eliminations. He signalled me a moment ago and said he did not support those eliminations.

Mr. Swart: Mr. Chairman, I wanted to ask you and some of the others, does there remain adequate time under the amendments to the Theatre Act to discuss the principles? I am familiar with the process being used by the censor board and we discussed those principles in the House.

I am wondering how much time there is left in this particular public entertainment item. I want to have some discussion with regard to lotteries. I would also like to know how much time there is left in these estimates. I know we have used up some time. I do not want to run out of time so that we do not have adequate time to discuss rent review. How much time is left now in the two hours we had allotted to the public entertainment program?

Mr. Chairman: We have used one hour and 20 minutes, so we have one hour and 40 minutes left for vote 1504. That has not been broken down. You may carry on with whatever portion of either item 1 or item 2 you wish. Horse racing is item 1.

Mr. Swart: Mr. Chairman, can I just say this? If we are not dealing with the censorship board, obviously you want your officials here. I presume you have different officials to deal with the lottery commission and, therefore, if there are other members who want to carry on with this—

Mr. Chairman: There are none.

Hon. Mr. Walker: During your absence from the committee room earlier this morning, we discussed the question of lotteries and horse racing. It was agreed last Friday that horse racing would be put over until Thursday because the commission had hearings scheduled all day long today and the public would be inconvenienced. Thursday was the day that they had clear to come here.

Secondly, our lotteries person was available at 12:30 today. He could not get here before 12:30, and I made the decision that that is something we could relegate to Thursday as well. That is Mr. Simpson and he could come back for that. In fact, I think there is another question for Mr. Simpson that is floating around as well.

Mr. Chairman: Are there any questions on the athletics commissioner?

Mr. Williams: I would like to carry on with the film board.

Mr. Chairman: Mr. Williams, you wish to carry on? Fine. Let me make it clear that there is no designation on time limits established. You asked that question; there are none.

Mr. Swart: I am sorry, perhaps I did not make the question clear. I wanted to know how much time there was left under entertainment so I would have to chance to ask some questions on lotteries.

Mr. Williams: Mr. Chairman, I thought we had only 15 minutes left, and while Mrs. Brown is still available to us it would give us an opportunity to round out our questioning and updating on what is happening at the board and the whole idea of where we are going in this field.

Mrs. Brown, I do not think you have convinced me on that idea about a quota system. I will raise the question with you again next year at this time and see whether statistics confirm your perception that the industry is moving in new directions that will provide a more balanced entertainment format.

I hope this perception is proven out. If not, well, I will raise the issue with you again next year. I agree with your suggestion that one would be reluctant to move in the direction of establishing a quota system, but if the industry is simply looking where the bucks are and not trying to provide balanced movie fare, then I think it is something that has to be seriously considered.

One point that you did not touch on that would be interesting to talk about in the few minutes left to us is the percentage of foreign films that are coming in as compared to those domestically made, if I can identify the North American market as the domestic market. Has there been an upsurge in the number of foreign films gaining acceptance in our marketplace here, and is that causing any problems as far as standards are concerned? It seems to me that some of the more controversial films of recent times have been foreign films coming in, I guess from Europe in particular. Could you give us some indication of what the trends are there?

Mrs. Brown: Yes. Foreign films are certainly proportionately greater in number than North American films, but this includes all the art films and festival films. Last year films from the United States and Canada in general distribution would probably have numbered about 260. Films from China alone numbered about 230, so there are almost as many Chinese films as there are American films in the general distribution area.

Certainly if we talk about our controversial decisions over the past three years, I keep saying I find it interesting that we have made over 3,000 decisions in the last three years and we have been seriously criticized on three: *Luna*, which was an Italian film; *The Tin Drum*, which was a German film; and *Pretty Baby*, which was directed by a French director, Louis Malle.

I believe it is the combination of the fact that the very serious art films are usually foreign films and usually deal with very controversial subject matter which makes it very difficult for the board. We are always playing with that balance between what is considered to be an art form and how it is treated, and whether it is, in the eyes of the majority of the population, an acceptable treatment or an acceptable approach or an acceptable vehicle. There will always be that dichotomy between an art film's subject matter and the method of approach; it is always a conflict and always a concern of the board to determine the majority concern in the community.

I found that the three great controversial decisions in the past three years in over 3,000 films have all centered around the use of a child. It has not been an attempt to protect an adult public from pornography in a paternalistic way; it has been a reflection of what we perceive to be a common concern about the use or exploitation of children in an art film, and that is the conflict.

Mr. Williams: I do not know whether this public perception still prevails or not, but in earlier years certainly people have said to me the Ontario film censor board is banning so many films in this province and it is just going completely against the concept of freedom of choice and so forth.

Of course, the difference between editing and outright banning is substantially different, but I do not think that distinction was made in the public's mind. They always look to the board as simply banning films, while probably you could count on the fingers of one hand, or certainly two, the number that have actually been banned outright over the past two or three years. Some people do not see that distinction, which I think is very important.

Mrs. Brown: Out of 1,765 last year, five were rejected. Again, that is a distortion because the jurisdiction of the board is only on films on public screens. As a matter of fact, I am having the forms changed because we do not ban films, we simply do not approve them for public

exhibition. Our jurisdiction does not extend to what people see in their own homes or what they see in private screenings. I think the concern of the community we are trying to reflect is the impact of films that are in widespread commercial distribution, that have the power to have an impact on the quality of life within the community. So the concern of the board is approving or not approving for public exhibition.

12:50 p.m.

For example, we did not approve for public exhibition five films last year. The Quebec board, which is touted as being much more liberal, rejected 95 films.

Hon. Mr. Walker: And of the five films, four would not be in the category of the traditional movie houses that most of us are familiar with. Am I correct on that?

Mrs. Brown: I would like to read you the titles of the films that were rejected last year as I think you might find it interesting. It is all in the annual report.

Mr. Williams: Then following that, how many were edited?

Mrs. Brown: Last year we rejected *Passionate Dreams*, *Altar of Lust*, *Une Bête à Plaisir*, *Dirty Secrets*, and *The Budding of Brie*. The Ontario public was denied the right to see those five films.

Mr. Williams: You say you are simply denying the right to have them shown publicly, but a person could come in and—

Mr. Piché: I do not think they were denied the right.

Mrs. Brown: That is right. They were not approved for public exhibition. I am contradicting myself.

Mr. Williams: Those films are still available for private showing, are they, if someone made arrangements?

Mrs. Brown: Some of those would probably be available on videotape for home viewing.

Mr. Williams: How many films then would have been edited?

Mrs. Brown: Sixty-five out of 1,765. Since January 1 eliminations were requested in the following—this was done in March: *Children of Babylon*, from Jamaica; *Flying Sex*, from Italy; *Los Leprosos El Sexo*, from South America; *Mother's Day*, from the United States; *Prey*, from Britain; *Fireworks Woman*, from the United States; *Black Emanuelle*, from Italy; and

Pleasures of a Woman, from the United States. In that three-month period eliminations were requested in those films.

Mr. Piché: It is a good thing I am not on the board. I would put the knife to a lot more of the ones I see go through. I think it is terrible.

Hon. Mr. Walker: And that is Kapuskasing.

Mr. Piché: I am talking about Ontario.

Mr. Mitchell: You should see what they show in Kapuskasing.

Mrs. Brown: Every month we publish our elimination reports which are available to anyone on request and state exactly what is taken out of each of them.

Mr. Andrewes: Are the movies as explicit as the titles?

Mrs. Brown: Much more so, and the trend is not to sex between consenting adults but to masochism, the whips and chains and the women in bondage.

Hon. Mr. Walker: These are positions the NDP support, as I recall. Am I correct on that, Mr. Swart? You would not have us eliminate those. Am I accurate?

Mr. Swart: Eliminate what?

Mr. Williams: Mr. Swart is still reading the paper over there.

Mr. Swart: We have got a bill coming up in the House.

Mr. Piché: Repeat that question now that Mr. Cassidy is here.

Mr. Cassidy: We are still gloating on the headlines.

Hon. Mr. Walker: You are not allowed to gloat in here. We are talking seriously about movies and about eliminations from the movies, and Mr. Swart is about to tell us the NDP position in movies. I am talking about whether, for instance, explicit portrayal of sex for children and adults, whether exploitation of the children sexually, whether that kind of thing should be eliminated or should not be eliminated.

Mr. Cassidy: I just think the headlines were terrific. I would have thought that someone like you, who is so much to the right of Sterling Lyon, would have appreciated the vote from Manitoba particularly.

Interjections.

Hon. Mr. Walker: I want to know, Mr. Swart, whether the exploitation of children would be an elimination you would accept.

Mr. Swart: Mr. Minister, I realize how much you want and how deeply you need the advice from the NDP, especially after what happened in Manitoba yesterday, and I am sure you will get it all when the bill on the theatres comes before the House.

Hon. Mr. Walker: I know you, you are clinching in the draw. You have got a chance here, an opportunity to comment, and you are equivocating. I have never seen you without an opinion here. I just cannot believe that you would sit so silently through this entire portion and not so much as utter a word.

Mr. Cassidy: I will utter a word, so I will plunge in, if I may. I think we should have a classification system as the other provinces do and as they have in the United States. If the minister is to be consistent in concerning himself with what is depicted and the kinds of leading questions that he has put, then I would like to ask where is the minister with respect to the magazines which are on the stall up at the milk store around the corner from where I live here in Toronto?

Where is the minister with respect to television and with respect to all the other means of communication which do not come under this same kind of censorship? How is it that we seem to survive with what is frankly a lot of trash, which is allowed in the printed media, but if people pay somehow they are going to be affected?

Why is it, as well, that we constantly get into these kinds of hassles we have had where the censorship board comes crashing in on works of art and makes a fool of Ontario?

Hon. Mr. Walker: What kinds of works of art?

Mr. Cassidy: The Tin Drum is a very good example.

Hon. Mr. Walker: Let us be a little more current; we went all through that one. In fact, The Tin Drum was ultimately approved on a compromise solution.

Mr. Cassidy: If the NDP had not had the thing screened, if there had not been a kind of monumental kerfuffle over the thing, it would not have taken place. The specific question, in view of the time limitations, is this—

Hon. Mr. Walker: What would you do on Not a Love Story? What would you do on that?

Mr. Cassidy: I am glad you raised it. It seems to me that it is ridiculous to make one rule for

the National Film Board and say they cannot show their stuff or to say that about the NFB film, which happens to speak directly to issues which I know concern Mrs. Brown and many other people, and have another rule for somebody else.

I have read again and again where Mrs. Brown has praised Not a Love Story, but not to the point where she is prepared to allow it to be disseminated in ways to reach the people to whom perhaps it might be most provocatively directed.

Hon. Mr. Walker: And you would allow that to be shown commercially?

Mr. Cassidy: Yes.

Hon. Mr. Walker: It is interesting that you mentioned all the other provinces that do not censor, but all the other provinces really do censor, including Quebec, including even Manitoba.

Mr. Cassidy: In the United States I think you will find they have a classification system.

Hon. Mr. Walker: But you were talking about Canada.

Mr. Cassidy: I am talking about Canada too.

Hon. Mr. Walker: You said all the other provinces do not censor.

Mr. Cassidy: No, I did not say that. I said there are classification systems that exist in a number of the other provinces.

Hon. Mr. Walker: We have classification too.

Mr. Cassidy: You have classification, but the classification is, in fact, a means of excluding, and the classification in addition is accompanied by—

Hon. Mr. Walker: No, 98 per cent of what we are doing is either classifying into one of the four categories or putting warnings on, that kind of thing.

Mr. Williams: Mr. Chairman, it is one o'clock. I hope you recognize the time and adjourn.

Mr. Cassidy: The member for Oriole is obviously more interested in lunch than in this particular issue.

Mr. Williams: We have been here for two hours; you have been here for the last two minutes.

Mr. Chairman: Following the traditions of this committee, the committee is adjourned until after routine proceedings tomorrow.

The committee adjourned at 12:59 p.m.

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 Williams, J. (Oriole PC)

From the Ministry of Consumer and Commercial Relations:

Brown, M., Director, Board of Censors, Theatres Branch
 Yoneyama, H. Y., Executive Director, Technical Standards Division



Ontario

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Standing Committee on Administration of Justice
Estimates, Ministry of Consumer and Commercial Relations

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First Session, Thirty-Second Parliament
Thursday, November 19, 1981,

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, November 19, 1981

The committee met at 4:13 p.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

The Vice-Chairman: We will get the meeting under way.

On vote 1504, public entertainment; item 2, theatres, lotteries and athletics commissioner:

The Vice-Chairman: On the last day we had completed that part of item 2 of vote 1504 related to theatres. Under the same item are also lotteries and the athletics commissioner. It was my understanding we were going to go to item 1 today to deal with the Ontario Racing Commission, but if there are a limited number of questions on the remaining two matters under item 2, lotteries and the athletic commissioner, perhaps we could finish that up and then go to the Ontario Racing Commission. Are the officials here from the racing commission?

Hon. Mr. Walker: Yes. We have lotteries and racing and boxing all represented here.

Mr. Mitchell: Mr. Chairman, if we are going to continue on a little with the theatres, lotteries and the athletic commissioner, I just have one or two questions there.

The Vice-Chairman: I think Mr. Swart also wanted to ask some questions on lotteries, so perhaps we could continue on with item 2, that portion of it dealing with lotteries and then athletics.

Mr. Mitchell: If Mr. Swart wishes to go with lotteries first, that is fine because mine is on the boxing commissioner.

Mr. Swart: In view of the time, if you recognize me, I will put some questions very quickly to the minister. They may not be terribly controversial, but we do know that over the past two or three years pressure has been brought to permit casino gambling in some centres in Ontario, and I suppose Niagara Falls was one of those areas. There were some pretty positive statements made by the previous minister that they would not be permitted in this province, and I would hope the minister would make the same commitment today.

I also want to put perhaps an even more general question to the minister with regard to the whole issue of lotteries. I am very conscious that, like many other subjects, this is a difficult one. I think there has to be some concern across the province and the nation with regard to the amount of money that finds its way into lotteries now and the tremendous expansion in gambling, if I can use that term generally, with over a billion dollars a year going into this.

On the other hand, we recognize that many of the service groups and worthwhile organizations get a lot of their funds from running various types of games of chance, lotteries, et cetera. All of us in this room, I am sure, realize the benefits of that. I must tell the minister I have some concerns about extensive promotion of lotteries. The service clubs and similar groups do not advertise and they are not necessarily great promoters. They do it by word of mouth within the group and within the community. But there is a very major effort put forth by the Ontario Lottery Corporation, the federal government and others, in promoting.

I have here some documentation which is available to the ministry to show that very frequently this money is spent by those who can least afford it and that it takes away from other areas of expenditure which in some respects may be more beneficial. Recognizing the problem there, Mr. Minister, I would like to have your general philosophy on this, first of all, in regard to casino gambling, and then with regard to the matter of the extensive promotion of lotteries and where it is going to end.

Hon. Mr. Walker: With regard to casino gambling in the sense of organized gambling, which is not to be confused with fall fairs or bingos and the like and the Monte Carlo type nights that might often be held, there are no casinos. Now that relates to the type we have heard about in Niagara Falls or other centres.

Mr. Swart: Of the type there are in Atlantic City and are being promoted in New York state, et cetera?

Hon. Mr. Walker: None. I think that resolves that part of the issue. There may be another minister some other day who might want to have

that kind, but I am inclined to think that it will not be during the period of time I hold this office. Secondly, I rather doubt that our government would ever see fit to go with that large-scale, Atlantic City type of casino. So the answer to that is an unqualified no.

On the matter of lotteries generally, I suppose to some extent you are bringing in Wintario. I recognize Wintario is not part of this vote and not part of this ministry, but it is a part of lotteries, as are the Provincial and SuperLoto and all of them. We plug into it because we have similar types of lotteries licensed under our ministry in the form of Cash for Life and Pot of Gold. Those lotteries are generally pretty well run.

There seems at times to be a plethora of advertising which occasionally gets a bit grating. We have had occasion to talk to some of the people involved and discourage some of the types of advertising that have gone on. We are trying to provide one that is acceptable to the public and we certainly do not want it to happen that every time you turn on the radio for two minutes you are bound to get a commercial. On the other hand, we hear a fair number of the commercials.

It is fair to say that the proceeds go to very worthwhile causes. The proceeds invariably go to charitable things if we are talking about the kinds that come within our lottery. That is what is permitted under the Criminal Code. For every one of the big lotteries, there are 10,000 little ones out in the communities, and this is a very viable way for the Grimsby Soccer Club or the Hamilton Tiger Cat boosters or whatever.

4:20 p.m.

Mr. Swart: The Grimsby Soccer Club needs all the help it can get.

Hon. Mr. Walker: Does it? It is a chance to go out and earn a little cash and do a few good things. I was at a lottery type of thing, at a Monte Carlo night—the first one I have ever attended—last Saturday night and the proceeds of it were going to charitable and valid purposes. I am satisfied that things are functioning reasonably well there and that the proceeds are going to worthwhile purposes. I am inclined to think that by attaching a charity to it we make it easier for people to contribute money to charities. It is a little easier to buy a ticket when you know the ticket is going to foster the good purposes of the Kinsmen Club or the Lions Club or whatever it might be.

There have been a lot of examples where

people have indulged themselves who should not indulge themselves, people who do not have sufficient grey matter to figure out that they should not be spending or wasting a lot of money on lotteries. I think most people have figured out the odds, that the only one who is going to win is the house, so to speak, that the Kinsmen Club is going to get the lion's share of the money, that the purposes to which the money is going to be put are probably good, and that their chance of winning is fine but not great. It is not a case of winning one out of every five times; they realize that the odds are pretty slim. I do not think anyone is confused about that.

There are a few gambling addicts who probably get caught up even in the Wintario thing, using money they should not be using.

Mr. Swart: An increasing number.

Hon. Mr. Walker: I suppose you are right, although I have no direct evidence of that. I do not know of one person myself who falls into that category. I have never had one brought to my attention, but I am sure there are some.

Interjections.

Mr. Gordon: I want my free air in the north, Mr. Minister.

Hon. Mr. Walker: We are going to raffle it off. Generally speaking, they are pretty well run, as I see them. That is not taking any credit for ourselves. As we look at what is going on, we are reasonably happy with what is occurring in the field. Occasionally, we have to correct some of the situations, but generally speaking, things are functioning pretty well. We are satisfied that they are all within the confines of the Criminal Code. We are satisfied that the much larger lotteries are functioning well and that the purposes are valid purposes.

Mr. Swart: I would like you to make a comment on whether you think the promotion may be a bit great on Wintario and the province-wide or nation-wide lotteries for two reasons. It attracts people who otherwise would not get involved and, second, some of these things do cut in pretty substantially to local fund-raising. I think there has to be some balance between the two.

Hon. Mr. Walker: On the amount of funds raised in the communities of Ontario, not counting the big ones, Wintario and the like, our estimates are that the charitable lotteries in Ontario, the little ones so to speak, are grossing \$300 million a year in the community and netting about \$75 million.

Mr. Swart: What is the pattern on that? Is it up very substantially?

Hon. Mr. Walker: About 10 per cent a year.

Mr. Swart: Equal to the inflation rate.

Hon. Mr. Walker: Remember, the \$75 million net that these little charities all over the place are making, presumably, is money that the taxpayer does not have to volunteer or to ante up in some form of direct contribution. The charitable purposes are pretty valid.

Mr. Swart: You do not have to convince me of the value of those organizations. What I am concerned about is the balance and perhaps the excessive promotion which is enticing more and more people.

Hon. Mr. Walker: Wintario brought in about \$180 million gross last year, of which they would keep 40 per cent. The balance would go to overhead or to prizes. They are producing benefits of about \$75 million to the public in the form of typical Wintario proceeds, and the little charities are doing about the same. It is probably a pretty fair use of money.

Mr. Swart: I think it is something we have to watch over the years in order to maintain that kind of balance. Apparently, the net is about the same for both Wintario and the private lotteries.

Hon. Mr. Walker: There is a little more made when you include Lottario and so on.

Mr. Bradley: In my opening statement I referred to some of the same things Mr. Swart did. I guess most of us in the Legislature have probably been involved in service clubs. I have the same concern as Mr. Swart. Last Thursday night I visited the Legion branch in St. Catharines where the Wintario draw was being held. There you are, sitting in the audience and being part of the act. How can you argue against it in face of the fact that they have received a big Wintario grant?

My concern as a person who believes very strongly in service organizations is that their purpose now is to get a Wintario grant. I know you can say they are matching grants and so on. I spoke to the club I belong to, the Grantham Optimist Club, when Wintario first came out, against accepting Wintario money because it destroys the purpose for which a service club is set up. But now service clubs look around and say: "Look at who is getting Wintario grants. We may as well get into the act."

You say that these funds are going to some pretty good causes, but I venture to say that as a believer in free enterprise and the private sector

you must feel some concern yourself that some of these smaller organizations are being pushed out by the provincial and federal government lotteries.

Members will agree that the economic situation in this country is far from rosy. A couple of months ago it was announced from Ottawa that there would be a statement. I waited with great anticipation for what I expected would be an important announcement on what they were going to do to help the economy. What they did was to announce a new lottery. With the economy the way it is, the only solution they came up with was a new lottery. I shook my head in disbelief.

The Vice-Chairman: So did we.

Mr. Bradley: But you do the same thing. You can nod your head in partisan fashion, but my good friend Reuben Baetz just announced a new lottery. The proceeds are good; the feds will say it is going to the economy—

Hon. Mr. Walker: There is not a partisan bone in our bodies.

Mr. Bradley: All of us in this room represent free enterprise parties. Despite the fact that we buy oil companies, we represent free enterprise parties, but we acquiesce in promoting government lotteries which I think—I have no proof, and the officials may say I am completely wrong—are having a marked effect on what we see in service organizations today.

Hon. Mr. Walker: I gather that is not the case. There has been some shifting; there has been some move away from some of the big ones into other types of lotteries. There are a lot of Monte Carlos happening these days.

Bob Simpson is here, and he has general administration over these areas as the executive director of business practices. Maybe we can get a picture of it from him.

4:30 p.m.

Mr. Simpson: The picture we derive, Mr. Bradley, is basically from the reports of the lottery results which come from the municipalities. We get 90,000 of these a year. We also have a lot of contact with the municipal licensing officials. There is a constant stream of telephone calls in and out of our office on these kinds of things.

Our assessment of the situation is just from observation. As you would see your local club situation, we see the overall picture by stepping back and by a kind of osmosis collecting an impression from 90,000 separate events in the course of a year. It is not scientific testing.

The development we see goes something like this. We are not seeing any more the ambitious kind of local lottery where a group might have endeavoured to sell 200,000 tickets at \$1 each and offer a \$100,000 first prize. I do not know whether that relates to the entry into the market of the government lotteries in the last few years, but I can tell you one thing. From what we learned about the administration and operation of big and fair-sized lotteries, it is a proposition which these days requires ever more sophistication.

We are learning and finding necessary new control systems and new disciplines all the time. As a person who is ultimately responsible for the administration of these things, I think it would be very difficult these days for a group to undertake to run a big lottery, such as the one I already referred to, with \$200,000 in sales. They would have to cover a wide area, and it is very difficult to control. On the one hand, I can say maybe it came about because of the entry of the major lotteries and is a marketing phenomenon only. On the other hand, part of it may be explained by the fact they have realized that this is a kind of undertaking not to be engaged in lightly. It requires an unbelievable commitment of time.

We are demanding more and more of the groups in this regard. Our posture now is to demand more and more detailed controls and accountability for these lotteries which are entrusted to people under the Criminal Code.

Mr. Bradley: It makes the local people mad, but I think you are right.

Mr. Simpson: I think we are too. We are trying not to be heavy-handed about it. Yes, some people say, "Doggone them, they are demanding those reports." You members here may hear about it because we are asking for those reports. It is not asking for much, but we want those reports.

It is not just the numbers we want. We want people to realize they are operating under the Criminal Code and have a responsibility. The two gentlemen or two ladies or whoever who put their names on that lottery application are signing something that gives them accountability under the Criminal Code. We try to be reasonable whenever there is a situation where somebody says, "Hey, we just cannot do it." But generally we are cracking down on controls.

Mr. Bradley: As a member of the Legislature, I get complaints from the other side, but I am prepared to defend your position. If we are

going to err on any side, it should be on the side of keeping people honest. The people who are running an honest, up-front lottery should not object to what you are doing.

Mr. Simpson: They would have no problem.

Hon. Mr. Walker: There is a lot of trust placed in the people who are running it. If you start to lose confidence in one or two lotteries, your trust is destroyed in a lot of lotteries for a long time.

Mr. Bradley: You are right.

Mr. Simpson: I guess we are all involved in these things one way or another. I myself am involved in a number of things, including my local hockey association, which runs a small weekly bingo. That requires a fair bit of time. I know the fellows who look after our bingo, and they come out week after week. They are there from six o'clock on Thursday until midnight. They just keep plugging away.

One thing that is happening, and we are not unhappy about it, is the shift to the Monte Carlo kind of event. This means that the controls are tight and the opportunities are limited. We generally allow them to have one of these three times a year.

They can plan these events well in advance so that they can set up the facility, arrange for an assured supply of equipment and train the dealers. With the right kind of promotion they can, subject to extremities of weather, be pretty well assured of attracting 500 people. Although we only permit dollar bets—that has been a key part of our philosophy for quite some time—it enables a group, if they bring in 500 people and have a good evening, to raise \$4,000 or \$5,000 for their charitable purposes.

We like the Monte Carlo because of the control factor. It is very satisfying to the fund raisers because for one night's effort and some planning they can have an assured amount of money, and the public enjoys it.

There is another development which is proving to be satisfactory because of the amount of effort involved. We are seeing more and more of a customized kind of lottery by which I mean it is a limited sales lottery. You may be aware of these. Typically, they are limited to 1,000 participants, which keeps it mostly confined to the club members and their business associates. They may charge \$52 or twice that amount. There will be one draw a week for 52 weeks, and the winner can receive \$500 or \$1,000.

That is a very easy draw for a club to administer because the sales and marketing

effort is one time only. The draw is very predictable. You do not have to search far and wide for a winner because you only have, say, 1,000 participants. They are very lucrative for the group and they can administer and control it easily.

The people who are participating also get great satisfaction. I know how that feels because I am in a hockey pool with my kids' hockey team. Every once in a while I win \$10 which is very satisfactory. People who participate in these high-value, 52-week things figure that at least once or twice they are going to win \$500.

All these changes are taking place in the different groups' approach to raising money. There is no doubt that in some areas and in some circumstances a club's fund-raising efforts are showing diminishing returns. The bingo may be yielding less, or the ticket sales may not be the same. But we can say our general feeling is that charitable, social gaming continues to grow. The nature of it is changing quite a bit.

We are seeing more consolidations of groups which get together on an endeavour, and that is not such a bad thing. Just as they get together for the local Christmas or Santa Claus parade, local service clubs may get together for social gaming functions. That is not yet a big thing, but we are seeing more of those consolidated efforts.

Mr. Bradley: Your definition of charitable organizations is fairly wide. I understand that lotteries for minor sports, for instance, are considered to be for charitable purposes. It would be interesting to know whether political parties could run these lotteries.

Hon. Mr. Walker: No, you cannot do that. They are not charitable.

4:40 p.m.

Mr. Bradley: There we are. We have lost again. I once bought one for an NDP hockey pool. I want you to be aware of that fact.

Hon. Mr. Walker: Where do we charge them?

Mr. Bradley: That was many years ago. It was for an NDP hockey pool and I was not NDP then either.

Hon. Mr. Walker: What are the names?

Mr. Bradley: I will never reveal those to you because I know your executive assistant will find out anyway.

Hon. Mr. Walker: We will have those names by the morning.

I will say that I am aware of certain political parties close to me that have attempted to have a lottery of sorts, a Monte Carlo night, and I was

involved in one directly with one of our members. The way we were able to solve the problem was to have a charitable organization come in, run the lottery, receive the proceeds and do whatever they would with the proceeds in their own charitable ways.

Mr. MacQuarrie: That would be the Liberal association.

Hon. Mr. Walker: I do not know that we would let the Liberals do that, but anyway this was a Conservative organization. As I say, there is not a partisan bone in my body and I would not even contemplate not doing the same for the Liberal Party or the NDP as we would do for our own.

Mr. Andrewes: How charitable were these charitable organizations?

Interjection.

Hon. Mr. Walker: What's his name? We will look after him. Send him over.

Anyway, that is how we got around it. So if you want to run one of your own in your own organization, go out and find a charity and have them come in and run the show and you will be okay.

Mr. Bradley: We would not get into the gambling business. We are already into the drinking business, so we cannot get into the gambling business.

The Vice-Chairman: Are you through, Mr. Bradley?

Mr. Bradley: Yes, I am. Thank you.

Mr. MacQuarrie: I heard they wanted to open a casino in St. Catharines.

Mr. Bradley: That is the PCs. They run everything in St. Catharines anyway, except the local member.

Mr. MacQuarrie: If I could direct a question to the minister, in your opening statement you indicated you were going to be tabling the consumer issues report. We are getting well along in the estimates now and I just wonder if this report is available.

Hon. Mr. Walker: Yes, this is report day. We have here copies of A Study of Attitudes in Ontario, prepared for the Ministry of Consumer and Commercial Relations by Market Facts of Canada Limited, September 1979.

That is the first one I would like to distribute. There is a pile of them over there on the floor which will ultimately get out to you. This is the one that was specialized into drinking and gambling—no, sorry, drinking and movies.

Mr. MacQuarrie: That is 1979.

Hon. Mr. Walker: This is 1979. I have a suspicion the 1980 report is in the boxes I see being delivered to the clerk. That is available for distribution now; we have had copies made of that. In addition to that, I have a copy of the International Survey, Alcoholic Beverages Taxation and Control Policies. Who asked for that?

Mr. Bradley: What was that?

Hon. Mr. Walker: Alcoholic beverage taxation and control policies. Someone wanted to know the alcohol situation all across Canada and the United States. That came out a couple of weeks ago.

Mr. Bradley: I heard that somewhere in estimates here, but I cannot remember whether I asked for it or not.

Hon. Mr. Walker: I would like this book reviewed by you by morning and I will anticipate the questions to be asked here. Is your research up to handling this?

Mr. Bradley: They are too busy doing other things.

Hon. Mr. Walker: Can they cope with this?

Mr. Bradley: They are busy planning who you are appointing to the Residency Tenancy Commission.

Interjection.

Hon. Mr. Walker: Wait until tomorrow. There are two more.

Interjection.

Hon. Mr. Walker: No. I am serious.

Interjections.

Hon. Mr. Walker: Anyway, I will turn this book in to the clerk. It is available, and I presume it can be sorted out among you. Here is the one, Ontario Consumer Issues, 1980. Well, will you look at that? They have put the wrong date on the front of the book. Anyway, it is Ontario Consumer Issues, October 1981. That is hot off the press, although the cover is hot off last year's press. There are lots available. Everything you need is tabled.

Mr. MacQuarrie: I thought they were just going to get another issue of Consumer Reports.

Hon. Mr. Walker: Anything you want from us, just ask and we will get it.

The Vice-Chairman: I am not sure that that date on the front cover, 1980, is not correct. It indicates the second survey involved was conducted between November 21 and December 20, 1980. I do not know whether that is this survey or not. It may, in fact, be technically correct; it is late 1980.

Hon. Mr. Walker: We do do a survey of Ontario consumer issues and they are available. This is the 1981 publication that is available to you now, and you have the 1979 copy for reference. We will turn over to you anything you want.

The Vice-Chairman: Mr. MacQuarrie, did you want to pursue that questioning now that the report has been tabled?

Mr. MacQuarrie: It was just a question of that indication having been given by the minister during his earlier comments, and here we were going merrily along with no sign of any reports. Now they have appeared, so I am satisfied.

The Vice-Chairman: All right. You have no questions with regard to the reports at the moment? You have not had time to peruse them and develop any questions on them.

I see the chairman has entered the room. I will relinquish the chair and let you carry on, Mr. Chairman.

Hon. Mr. Walker: The book with the red cover, Ontario Consumer Issues, is hot off the press, so you have that as fast as anyone has it.

Mr. Chairman: Mr. Mitchell, you advised me orally that you are next on the list.

Mr. Mitchell: If the questions with regard to lotteries and so on are finished, I wish to raise some very brief questions to the boxing commissioner through the minister.

Hon. Mr. Walker: Are we through with lotteries?

Mr. Bradley: I am.

Hon. Mr. Walker: Mr. Gray, would you like to come forward? If anyone gives you any trouble, you know what to do.

Clyde Gray is the Ontario Athletics Commissioner and was appointed to that position effective October 1, 1981. He served as deputy for some period of time. Mr. Gray has a very distinguished career as an amateur and professional athlete in Canada and the Commonwealth and comes to us extremely well qualified for the position he has.

Mr. Mitchell: Mr. Minister, my main question really is that about a month ago I saw some very brief write-ups in the newspapers with regard to a seminar that was held by the athletics commissioner, I believe in Toronto. Over the past few years I know many of us have read the concerns about boxing in particular, involving the degree of medical inspections and so on that have been brought about.

Perhaps the commissioner might want to tell

us the results of that seminar, the things that were discussed at the seminar. More particularly, he might tell us what he sees within his department as the need he is facing to improve the image that boxing has had over the past years.

It is rather a broad question: first, the seminar, and then what you have found in the short time you have been with the ministry concerning areas that need improvement.

Mr. Gray: First of all, I would like to say I got involved with boxing in 1965. Since that time I have seen three fighters killed in the ring. One of them was my brother in 1972. I also saw another fighter crippled for life. He is not allowed to fight any more. He is alive, but that is basically all he is, just alive. Through this type of seminar possibly we could prevent some of these deaths and injuries in the ring.

4:50 p.m.

There is a lot to be done in boxing. For years no one ever did anything for the sport. The promoters just sort of took money from it.

This ministry is now putting something back into boxing. We are having seminars and we are upgrading our officials. We have a doctor on our staff right now, Bruce Stewart, a neurologist. He is a great help to me. I feel better when I go to a fight and know I have a neurologist who has checked over a guy and told me he was okay. That makes me feel good.

The seminar was well attended. We had members from right across Canada. I have had great response since the seminar. I have had letters and phone calls. I have had all kinds of people complimenting us and saying this was something that should have been done a long time ago and that for once it is nice to see someone who is trying to help boxing and give it a better image.

People look on boxing today as a sport where there are a lot of gangsters involved and where they fix fights, but those days have gone from boxing. Through this type of seminar, boxing is going to become better known and better looked upon.

Mr. Mitchell: At this seminar what specific areas would you have worked on with the people? Was it workshops and that sort of thing? How far did this seminar go?

Mr. Gray: The seminar was first started for one main reason. We have a new rule in Ontario that a doctor can stop a fight at any time, but there are very few doctors, believe it or not, who know when to stop a fight, who have the

knowledge and the background of being involved with fights. This was how the seminar started.

We invited doctors from across Ontario. At that seminar we had Dr. Campbell, who is a well-known physician with the New York State Athletic Commission. Through him and Dr. Stewart, we taught the doctors the right time to stop a fight and the proper examination to give the fighter before the fight; anything that was the doctor's role in boxing was what we taught that day.

Also, we brought in Arthur Mercante, who is a top referee with the New York State Athletic Commission. He has refereed many championship fights. He spoke on when the referee should stop the fight. There are cases where referees let the fight go too far. It happened in the case of Cleveland Denny.

Mr. Mitchell: If I may just interject at that point, I think those of us who have watched boxing matches on television and have attended some of them are used to seeing someone waving his hand or his two fingers in front of the boxer's eyes and that sort of thing. To the uninitiated, the boxer looks to be ready for the count at the point, yet whoever the official is says it is okay and lets him continue.

I had a short discussion with you earlier. You mentioned death in the ring and I realize you have had one very close to you. I am thinking of another boxer who has had a couple of bad fights this year and there have been a lot of reports in the newspapers about the rationale behind it, what caused this and what caused that. I do not want to get into that area specifically because there may be issues pending on it.

You say a doctor is at the ring. Was it the case that there was not always a doctor at ringside?

Mr. Gray: In some cases, sure.

Mr. Mitchell: A match actually went on without a doctor?

Mr. Gray: Yes. There have been cases where they did not require a doctor to officiate at ringside. I know of a case where they just had a person who had some kind of first-aid background attend the fight.

Mr. Mitchell: Basically, at this seminar you came up with what a doctor's duties will be at a ring. Are you now enforcing a rule as well that a doctor must be in attendance at each fight?

Mr. Gray: That is right. A doctor must be in attendance. Along with that we are requiring that there be a stretcher and an ambulance on call at each fight. If we have to rush a fighter to a

hospital or have to get him out of the ring, they can put the stretcher in the ring and bring him out and get him into the hospital in plenty of time.

Mr. Mitchell: There has been talk about boxers being taken advantage of in their boxing career by—you just mentioned it briefly—the crime element that one associates with gambling. Does your level of control in the position you hold enable you to go in and examine every aspect of boxing? I raise that question, if I may, Mr. Minister, because I noticed Mr. Coleclough with you. I had the privilege of meeting him here last December and I presume that Mr. Coleclough must be one of your investigators working with you in your duties. Is my assumption correct?

Mr. Gray: Maybe Mr. Coleclough can answer that.

Mr. Coleclough: Somehow or other I got the appointment of deputy athletics commissioner as well. Yes, our section provides a support role for Mr. Gray's office. During the promotion of a fight and the lead-up to it, our facilities are used to check into the backgrounds and the medical histories. As a matter of fact, the computer we have obtained and which we operate in conjunction with New York state is housed in our office.

Mr. Mitchell: In fact, you have a standing record really. How long would that record go back that would be on tape in the computer system or in the memory bank?

Mr. Coleclough: We would have a complete fight record on any of the fighters who are licensed in any of the participating jurisdictions. One of our problems is that we do not have enough surrounding jurisdictions on the system at this time, but we have made some effort to make contact with the provinces and the states in our surrounding geographical area, and we have asked them to give us co-operation and perhaps come in on the system with us.

I mentioned the computer is housed in our office. It is tied into the computer bank in New York state, and it is in that we are trying to get the other jurisdictions to participate.

Mr. Mitchell: You made one comment, Mr. Minister, during your comments about licensing. Every fighter who appears in any ring anywhere in Ontario, I presume, requires a licence to box in Ontario. If that is the case, how does he obtain his licence? Is he subjected to medical examination? Perhaps you can explain how a boxer gets his licence. Maybe that is an easier way to put the question.

Mr. Gray: First of all, I try to get boxers to come to my office. Most of the time they do have to in order to weigh in because a lot of them come from out of town. I try to get them to come to my office and I ask them for identification and proof of age. A boxer must have a complete medical, not just a general examination by a physician, but an EEG and an EKG. His eyes too are checked to see that he is in good physical condition before we issue him a licence.

A lot of times the fighter has come in from out of town, so we will licence him on the day of the fight. That would be done sometime in the afternoon of the fight. If we are handling fighters from the New York state, all their fighters will come in with a passport-type of system and they all carry passports. They offer their passport, and we can pretty well go by that. It gives the date of birth, the last fight they had, and whether they won or lost. This is why this passport-type system that we are implementing now is very important.

5 p.m.

Mr. Mitchell: You are implementing the same type of thing?

Mr. Gray: Yes.

Mr. Mitchell: Recently I seem to recall there was something in the newspaper about a boxer somewhere who was using someone else's identification and was fighting when by all records he should not have been boxing. What method do you use to check this identification? It used to be that for certain driving licences and so on you needed not only a photograph but fingerprints and that sort of thing.

Mr. Coleclough: We have toughened up the procedures, particularly at weigh-ins before a fight. Now the fighters and the managers are subjected to rather intensive questioning separately, one in one place, one in the other. As a result of that, if there is any deviation in the stories, we develop a paranoia.

Mr. Mitchell: I have one final question, Mr. Chairman. I presume as well that all those promoters who are organizing matches within Ontario are also licensed through your department?

Mr. Gray: Oh, yes. Managers, seconds, boxers or anybody who is connected with the fight all have to have licences. Promoters must have a written report from the OPP saying that they have no criminal background before we are allowed to issue a promoter's licence to them. For every promotion that they put on, they must

submit with the ministry enough funds to cover the entire fight.

Mr. Mitchell: Basically, the questions I have asked deal primarily with fights at the professional level. What about such things as amateur boxing clubs and so on? What sort of control exists there? As I look at it, there can be the same sort of situation develop in an amateur boxing club through club matches and so on, and one should be just as concerned there as with the professionals in the ring.

Mr. Gray: I am glad you asked that question. I do not know if you are aware of it, but we have two amateur bodies in this province. We have a group called the Ontario Amateur Boxing Association which was established before the war. We have a new group called Boxing Ontario that was established in the early 1970s. We have very little control over Boxing Ontario. Other than sanctioning their shows, I do not know what they are doing from one show to the other. The OABA comes fully under my jurisdiction. I sanction all their shows, I supply all the officials for their matches and I completely control them.

Mr. Mitchell: I am sorry to interrupt, but how does that happen to come about? You have the Ontario Amateur Boxing Association fully under your aegis, but how is it that this Boxing Ontario seems to be an entity apart?

Mr. Coleclough: There is a question of jurisdiction that goes back historically to when the Athletics Control Act moved to the Ministry of Consumer and Commercial Relations. That was in 1979. Prior to that time, it was housed with the Ministry of Culture and Recreation and the Ministry of Culture and Recreation did not want to have control of professional boxing.

Consequently, the legislation was moved to our ministry, and at the time it was moved there was an order in council which actually stated, or gave the understanding, that regulation of professional boxing would be under the Ministry of Consumer and Commercial Relations and the administration of amateur boxing would be with Boxing Ontario.

This seemed at the time to be a rather logical situation except that, subsequent to this time, we ran across a series of tragedies. There was increased focus on the sport of boxing in North America. It suddenly became apparent that Boxing Ontario no longer had the legislation or was affiliated with the ministry that had the legislation or the clout. In fact, the Athletics Control Act very clearly states that the respon-

sibility for both professional and amateur boxing rests with the athletics commissioner.

We are currently in a dialogue between ministries as to how this dilemma is going to be solved, but Boxing Ontario is a nongovernment authority and has no statutory power. Although it is recognized by the Ministry of Culture and Recreation as perhaps a governing body over amateur boxing, it cannot impose its standards upon anyone out in the field. It has no investigative power and, in fact, it has no legal power to control.

We feel we have some solutions to offer on it, but those solutions require that Mr. Gray, as the athletics commissioner, is kept in full and complete control of both the professional and amateur arenas and that there is timely disclosure given to him. This is really the crux of the matter because we find ourselves in a situation where, for instance, even in the clubs over which Boxing Ontario does exercise control, if they find a problem, say, on the night of a fight, they could be very well forced into a situation where they would call the office of the athletics commissioner to come and impose the power of the legislation, and yet he has absolutely no knowledge whatever of what has gone on before.

It is a precarious situation and a vulnerable situation and one that has to be cleared up with reasonable dispatch.

Mr. MacQuarrie: I have a supplementary, Mr. Chairman. You have mentioned boxing as such. What about the control and regulation of sports that are somewhat similar to boxing, such as the sport of kick boxing which is particularly rough, with pretty harmful potential, karate, and even wrestling at both the amateur and so-called professional levels, but where at the professional level it seems to be more of a theatrical event?

Mr. Coleclough: Could I just answer part of it? There was one part of that where I just heard something mumbled, "So you think you are tough." I will just speak to that and then Clyde can handle the rest. The "so you think you are tough" bouts were occurring because of the dilemma between the ministries and the grey areas of jurisdiction.

Mr. Mitchell: Not the Clyde Gray area, the grey area.

Mr. Coleclough: The grey area, not the Clyde Gray area. We did move in on the "so you think you are tough" bouts. That has been eliminated across the province. They are taboo, verboten;

there just ain't none occurring anywhere. Clyde, you have got kick boxing.

5:10 p.m.

Mr. Gray: First of all, I would like to say that I have only been in this job for a year and kick boxing is a concern of mine. At the present time, we are looking at trying to find some regulations to either regulate it or, if possible, even ban it, but there is very little of it going on that I know of.

Since I have been commissioner, I think there was one kick boxing tournament that did occur in a place just outside of Toronto—Milton. At that time, I heard there was not even a doctor at the ringside and there were no proper medicals. Ever since that last one, as far as our office is concerned, it is banned. Kick boxing is banned in the province until we find some proper regulations to control it. Outside of that one, I think there is very little going on in Ontario.

Mr. MacQuarrie: Our remarks have been concentrated on the physical protection of fighters and trying to prevent permanent injury and generally improve the quality of the sport as a sport. What about the financial consequences of boxing? One hears stories from time to time of young boxers being taken advantage of by unscrupulous managers and promoters. I realize that they are individuals over 18 and free to contract and free to give away their share of the purse if they want to, but is there anything you people do in terms of counselling young boxers as to what they should be doing in order to manage their affairs or look after their affairs? These kids go into things and their eyes are wide open. Some guys hit the jackpot, but the great bulk of them end up with little or nothing to show for their efforts.

Mr. Gray: A great part of my job, believe it or not, consists of that. A lot of fighters put faith in what I tell them. I get a lot of requests about how long to sign a contract, or whether they should sign with this one or with that one. You mentioned the age of 18. In Ontario, up until the last few months, the legal age to fight was 20 years of age. We have dropped that to 18 now. Fighters come to me and I help them as much as I can. I counsel them and I give them the best advice I can. We hope to get into the act a little more to try to protect the young fighters.

Mr. Williams: I have a couple of supplementary questions if I might, Mr. Chairman, to Mr. Gray, one on boxing and one on wrestling. I was just not clear as to the present situation with regard to amateur boxing. I understood you to

say there are two amateur boxing organizations in Ontario, one of which is Boxing Ontario. How big a factor is Boxing Ontario in the amateur boxing field as compared to the other amateur boxing organization, and what is the distinction between the two? What is the correct name of the second one?

Mr. Gray: The OABA, the Ontario Amateur Boxing Association. Boxing Ontario is an affiliate of CABA, the Canadian Amateur Boxing Association and the OABA is not. CABA will recognize only one body per province, so Boxing Ontario is it. There was a tournament in Montreal last night, the World Cup, and the OABA members could not fight in that because they are not members of Boxing Ontario and, therefore, not members of CABA. That is the big difference.

Mr. Williams: Was it Sullivan last night who had a very successful evening? He would be in Boxing Ontario of necessity because he could not have boxed without being in Boxing Ontario which is affiliated with the Canadian Amateur Boxing Association.

Mr. Gray: That is right.

Mr. Coleclough: There is a basic philosophical difference between the two organizations. Boxing Ontario, being affiliated with CABA, is geared to producing fighters for international competition, the Olympic events. The OABA also likes to recognize that, but it does realize philosophically that many young amateurs go into boxing because it is their route to the pros. This is where they get their experience. The OABA provides a type of training where, for instance, a person with Clyde Gray's background could be in their corner and could be giving them the necessary training, the kind of training that would perhaps keep them alive when they go into the professional ring. That kind of training is prohibited to the members of Boxing Ontario.

Mr. Williams: Yet Boxing Ontario is really the one that is looked on as the organization to strive to belong to because of the recognition given it by the Canadian authorities.

Mr. Gray: Boxing Ontario has more clubs and has more fighters, so if a club wanted to promote some amateur boxing, it would be much easier for it to join Boxing Ontario because there are more fighters to draw from. The OABA would be a little more difficult. I feel it is a shame that there are two amateur groups in the province and that OABA members are not allowed to fight on Boxing Ontario

shows and Boxing Ontario members are not allowed to fight on the OABA shows or they will be suspended. Amateurs are amateurs and they should be able to fight together and compete together, but in this province they are not allowed to.]

Mr. Williams: So that is a dilemma you are still trying to sort out?]

Mr. Gray: That is what we are trying to sort out.

Mr. Williams: The other question I had was with regard to wrestling, and I am talking about professional wrestling now. It is a much lower profile type of sport. I presume you do not consider professional wrestling to be in the class of the type of events they hold, say, in Maple Leaf Gardens, or do you? Is that type of wrestling considered to be legitimate wrestling, where they have the big events where the hooded avenger comes to fight the somebody else?

Mr. Gray: All professional wrestling is basically an entertainment-type of event. It is a sort of show, a theatre performance. People go there and enjoy it. The first wrestling match I went to was when I became commissioner and, believe it or not, I enjoyed myself. I never thought I would, but it is a type of entertainment you can take your kids to and take your wife to and have a lot of fun. If you look at it as what it is supposed to be and if you take it for just what it is, it is very entertaining.

Mr. Williams: I guess the best known personality in the field locally is Whipper Billy Watson. He would have been classified as a professional wrestler even though it is more of an entertainment medium rather than serious professional wrestling in the sense of people training for the Olympics for instance.

Mr. Gray: I know a lot of these wrestlers. A few of them will wrestle each other on an average of anywhere from five to 10 times in a week. They have the pattern down pretty well.

Mr. Mitchell: As a supplementary to that, I realize that you say it is entertainment, but I seem to recall a few years ago in an article written about Whipper Billy Watson it was implied that there was hardly a bone in his body that had not been broken. Although it is entertainment for those of us who watch it on TV or wherever, there are going to be mistakes made. Surely there must be a degree of ensuring within the wrestling field, albeit if you want to

call it entertainment, that those people at the same time are in good health.

5:20 p.m.

Mr. Gray: I would say in the Whipper Billy Watson days wrestlers were in better condition. Wrestlers in those days used to train to get in shape, but today if someone who weighs 200 pounds wants to get into wrestling, he just goes into it. He probably would not have the background of Whipper Billy Watson. Whipper Billy Watson had a good athletic background as did a lot of the wrestlers at the time he was wrestling. Wrestling has changed a lot. Today it has become more of a show than it used to be.

Mr. Williams: If I might, let me just go back. That is entertainment wrestling, and you say it comes under professional wrestling. I want to come to those who are truly involved in competitive wrestling, those who are striving to become wrestlers in the international field and go the Olympics and so forth. Do you have the same type of medical requirements or standards or supervision in that type of wrestling for people who are training, say, at the college level, and working up endeavouring to get into international wrestling competition, which is taken as a serious thing and not as an entertainment medium?

Mr. Gray: Are you talking about amateur wrestling?

Mr. Williams: Yes, amateur and moving into the professional field where they would be competing on an international basis.

Mr. Gray: We do not have anything to do with amateur wrestling. That would come under Culture and Recreation. They handle most of the amateur sports.

Mr. Williams: What professional wrestling organizations are there in Ontario that come under your jurisdiction and control, staying away from this theatrical type of wrestling?

Mr. Gray: None. That is it.

Mr. Coleclough: We were just talking to a young fellow yesterday, as a matter of fact, whom we first saw in the office about six months ago. At that time, he was looking for a wrestler who would train him. He finally found a wrestler who would train him and now he is a professional wrestler. He just came in for his licence and we asked him what he had been taught. He said, "Well, I learned all the tricks, and that's it." He is ready to go pro now, and he knows he will not be hurt.

Mr. Williams: Again, that is entertainment-type of wrestling he had in mind.

Mr. Coleclough: That is about the only kind we have that has a commercial market in this province now. The college teams that go for Olympic training and things like that—

Mr. Williams: That is the kind I had in mind.

Mr. Coleclough: —are virtually exempt because they are under the medical auspices of the universities or the colleges they work with. They go through rather rigid tests, so they are given an exemption as far as legislation is concerned.

Mr. Chairman: Are there any further speakers? Mr. Bradley, did you wish to ask a question?

Mr. Bradley: Mine will be on this vote, but not on this specific item.

Mr. Chairman: This is item 2. Did you want to go on item 1?

Mr. Bradley: Can we still go back to the censor board even though the board is not here? That is what I want to speak on for a little while, but not on this.

Mr. Chairman: We are on the same vote and item. We are also running over on time, however.

Mr. Williams: I do not care whether we carry on or go back to the censor board. As you say, it is the same item, Mr. Chairman, but I thought it was understood that Mrs. Brown could only be here through yesterday and we wound down on that yesterday because of her inability to attend today.

Mr. Bradley: Are we out of time on this vote?

Mr. Chairman: Very close, within moments, five minutes over or under.

Mr. Bradley: I do not want to take too long. I had just one question.

Mr. Chairman: Thank you very much, gentlemen.

Mr. Bradley: This could even come under the liquor vote business. It is under the censor board vote and the minister can answer for sure. If not, he can answer it under the liquor vote. What about hotels which can now show soft-core pornographic movies in a drinking lounge, like the ones they show at hotels in this city on television sets?

Mr. Mitchell: I have never been to one.

Hon. Mr. Walker: Are these actually going on?

Mr. Bradley: I understand in the hotel room it is legal to have those machines where you phone

in or something. I do not know because I just watch regular television. I am talking about a drinking establishment that shows these movies. Is that legal?

Hon. Mr. Walker: We are authorized under the Theatres Act, and under the one which is before the House now, to view only those movies for which a fee is charged. If it is a video-tape machine in a hotel where a fee is charged, that comes within our review process. If it is a free showing, then we do not have responsibility or jurisdiction. We have never extended it into the area of video tapes except where video tapes are for hire. If it is background music or background entertainment to drinking, then that falls within a category that is beyond our censorship scope. It is the same with the hotel.

We exercise a little bit of influence in the area of liquor. It all sort of goes towards whether the place is a good joint or not.

Mr. Bradley: If somebody wanted to complain, their complaint would be channelled through the Liquor Licensing Board of Ontario, I suppose, to the censor board. Is that correct?

Hon. Mr. Walker: You send it to me and I will see that it gets to both. We will cover it one way or the other.

Mr. Chairman: Mr. Bradley, have you finished your question?

Mr. Bradley: Yes.

Mr. Chairman: Does vote 1504, item 2, carry? Item 2 agreed to.

Hon. Mr. Walker: Is nobody dealing with horse racing?

Mr. Chairman: That is now.

On item 1, regulation of horse racing:

Hon. Mr. Walker: With me is Mr. Bill McDonnell. He is the director of the Ontario Racing Commission.

Mr. Williams: Mr. Chairman, one of the first things I want to be enlightened upon is the study that is in progress into the operations of the Canadian Trotting Association. I am not familiar with what led up to the undertaking of this study or the circumstances that brought it about. What are its terms of reference? Why is it that the results of this study are being eagerly awaited by the racing industry across Canada, or so I am told? It sounds as if it is a very important study. Could you advise the committee what is involved here?

Mr. McDonnell: I can give you some back-

ground on that, sir. Prior to the commission being formed in 1950, harness racing across Canada, with the exception of the Maritimes, was under the jurisdiction of the Canadian Trotting Association. As racing commissions formed throughout the various provinces in Canada, the responsibility for harness horse racing was eroded from the CTA to the various commissions.

Because of the number of horses and the number of days of racing we have across Canada, it became increasingly important that there be one central agency for the record keeping, the statistics and so forth of standard-bred horses and their past performance lines. What happened is that the CTA became a record-keeping body per se. That is their prime function. It got to a point where—similar to the Kennel Club—because of the volume it was impossible to keep records on a manual system. So they moved to a computerized form of record-keeping.

5:30 p.m.

Besides being charged a daily licensing fee by the racing commission, the tracks were also charged a daily licensing fee for the functions performed on their behalf by the Canadian Trotting Association. The tracks were concerned that they were being charged too much. On the other hand, the horsemen felt that they were being charged too much.

Inasmuch as our commission had recognized them to be the official record-keeping body and central registrar, we undertook to do a study to see whether or not the fees which they were charging the tracks were proportionate and within reason and that the tracks were not being overcharged for the services that were provided for in view of the computer installation and so forth.

Mr. Williams: So the study is really related to dollars and cents and whether equity is being applied.

Mr. McDonnell: A fee for service, I guess, and whether equity is being applied.

Mr. Williams: There is no question of the study suggesting that some other authority be established in lieu, or that the Canadian Trotting Association was not performing its function and purpose, but rather whether the fee schedules or levies that have been developed were realistic.

Mr. McDonnell: That it is fee for service. The study also pointed out that there were some genuine concerns. The people who met after we

tabled the study all agreed it is necessary that we have one record-keeping body, that we work to keep costs down and that the fees were going to be charged to everybody in the industry. From that we have now set up committees with track operator and horsemen representation to try to keep the fees in line and sort of have an overview of where those dollars are being spent and if they are being spent in the best way possible.

Mr. Williams: There is another thing which interests me. We have a Racing Commission Act which sets down the basic guidelines, and then there are the specific prescribed rules of racing. How standardized are those rules as they relate to other jurisdictions? Are they pretty well uniform throughout at least this part of the world, North America?

Mr. McDonnell: For the most part. I would say 90 per cent of the rules are uniform for the racing jurisdictions. They have to be because of drivers and jockeys moving from track to track and horses competing right across Canada and into the neighbouring states of Michigan and New York. I would say 90 per cent are uniform.

We in Canada, as you must appreciate, have a no-medication policy; you cannot use any drugs on horses in Canada. That is not the case in some of the other jurisdictions. But trainers are moving from location to location, and obviously they are aware of what the responsibilities are in those jurisdictions.

Mr. Williams: For instance, there is free movement between Canada and the United States, it seems to me, of the horses and the jockeys and so forth. They do the winter circuit down south and come back here in the spring and fall. They are working under basically the same rules and guidelines and everything else.

Mr. McDonnell: The riding infractions and the driving infractions are basically the same.

Mr. Williams: I suppose the weight of jockeys and everything else are all standardized.

Mr. McDonnell: That is all pretty well standardized. There is no question there.

Mr. Williams: It is my understanding that the commission has an aggressive training program under way to train racing officials throughout the province. How long has that been in place and what is involved in that particular program?

Mr. McDonnell: Basically, it is the same as Mr. Gray has described. No matter what you say, how good your facilities are and what niceties you can present, the fact of the matter is

public confidence in racing. That is what keeps it alive; that is what generates your money and employs the people. If that confidence is lacking, then obviously everything else is going to decline.

Our premise has been, since I have been with the commission, that we feel it all starts and stops with the quality of judges or stewards that are officiating at that meet. Very little had been done up till November 1979. The Canadian Trotting Association served that function and the commission per se had only one judge in each stand. Now we have taken over and all three stewards and all three judges at the standardbred tracks and the three stewards at the thoroughbred tracks all work for us.

We felt we had to get into some kind of recruitment program and training program to update these people. In the past, because of the explosion of racing dates in the 1970s, it was just a catch-as-catch-can situation. We had to find the guy. We had to service that track by that given night. Consequently, people put into those positions had a good knowledge of racing perhaps, but not very much education in the way of dealing with people, of proper ways to write up rulings, of disciplinary action and so forth.

Of course, nowadays every time a trainer, a jockey or driver is set down or an infraction occurs, they are coming in with high-priced lawyers, and those rulings had better be by the letter or they are going to take exception to it and try to get their people off. Consequently, those are the kind of training areas we are looking at, not so much being able to read a race or understand racing, but more in the administrative aspect of racing.

Mr. Williams: I presume part of that learning experience or training experience is in the work place itself.

Mr. McDonnell: That is right.

Mr. Williams: Is there also some schooling element to it where they are actually sitting down for a few nights over a period of a couple of weeks, getting some basic information?

Mr. McDonnell: Yes, right. The other thing you have to appreciate, with the amount of racing going on, is that it is almost impossible to have all the judges in at one time. In this past year, 1981, we have got into this training program and we have sent a lecturer or training officer out to the various locations—to Smiths Falls, for instance, to cover the people who work in the Ottawa-Kingston area.

This was the first time in this field. We know we made some mistakes and we want to look at other aspects, as far as the training goes. In addition to the training officer, we would like to have lawyers address the stewards and judges. We would like to have investigators address them as to how they should proceed with investigations and make reports out.

Mr. Williams: Do you have any particular requirements with regard to the parimutuel operators? Is it part of your responsibility, before they are hired, that they have to meet any particular standards or qualifications to satisfy the commission?

Mr. McDonnell: I understand the parimutuel aspects of horse racing come under the Criminal Code and as such are a federal Department of Agriculture responsibility. But we do license everyone who is gainfully employed at the track, even though they might work in the parimutuels and might work in the cafeterias or security or parking—all of those. Any people who work at a track are licensed by us.

Mr. Williams: The briefing notes indicate that in the past year the commission has issued over 14,000 standardbred licences and almost 5,000 thoroughbred licences, as well as licensing the 18 standardbred raceways and the three thoroughbred race tracks. This is on an annual basis, is it?

Mr. McDonnell: Yes.

Mr. Williams: For both the standardbred and thoroughbred licences as well as the raceways themselves?

Mr. McDonnell: The only exception we have on that is the parimutuel clerks we spoke of. We have them on a three-year licence because of the volume and the turnover, but anyone directly involved—the grooms, the trainers, the owners—is licensed and has a Polaroid ID card, basically for security aspects as well, and that picture is taken each year for the licence.
5:40 p.m.

Mr. Williams: Are the 18 standardbred raceways and the three thoroughbred tracks tracks that have been operating for some period of time? No new ones have come on stream in the past year that I am aware of.

Mr. McDonnell: No.

Mr. Williams: Are any new racing facilities planned or in the works?

Mr. McDonnell: We have the Leamington Agricultural Society which used to operate on 10 Sundays prior to 1979. They discontinued

their operation. I guess they are in the process of contemplating a private individual who would like to lease those facilities and apply for racing dates. Whether or not he is granted racing dates will be contingent upon his financial viability. Secondly, he would have to look at the dates available in that sector of the province in order not to conflict with the existing track operators.

Mr. Williams: One last area, Mr. Chairman. The number of racing days in the province for standbreds is very much higher than for thoroughbreds. You seem to have maintained a pretty consistent number of racing days. I guess you are maximizing the use of time to a point where you are almost running right down to just before Christmas and starting up again in February or early March, it seems. It may be not quite that bad.

Mr. McDonnell: I guess there are two things on that aspect of race dates. Right now Ontario has the largest number of race dates of any jurisdiction in North America; that is including New York, Illinois and California.

Mr. Williams: And Florida?

Mr. McDonnell: And Florida. I am talking about horse racing. Florida does have more when we speak about dog racing.

Right now I believe we have reached a saturation point, especially on standardbred racing. Thoroughbred racing might have some more room. As you note, we are going for about 230 days on the thoroughbred side, but certainly with the standardbred operation the only days we do not have racing are Christmas Eve and Christmas Day. We race continually; somewhere in the province there is racing almost every day.

Mr. Williams: At one time the racing season was considered as starting some time around May 24 and running through until maybe the end of September. I know that has dramatically changed, but I did not realize it was that

intensive. There are just no more days to cram in, even if you wanted to, other than in the thoroughbred racing.

Hon. Mr. Walker: It is simply amazing the interest in racing. If you fly over southwestern Ontario, which I have done occasionally, from here to London—

Mr. Williams: Oh, yes, of course you do. You are a private pilot and you see a lot of them.

Hon. Mr. Walker: I do quite a bit. Just look down on some areas on the other side of Guelph and see the number of individual farmers who have their own tracks; they are so visible from the sky. Just look down and you will realize the degree of interest. That brings us down in the area from Milton through maybe to Woodstock.

Mr. Bradley: Just think what it will look like from that new \$10.6 million airplane.

Hon. Mr. Walker: Oh, that will be so high up you will not be able to see them.

Mr. Bradley: Well, when you are taking off and coming back down again.

Mr. Williams: I do not think that people realize, as you indicate in your notes, there are 40,000 people in the province involved in the industry and a lot of them are these individual breeders and racers. You certainly do notice that.

Mr. Chairman: Is that all, Mr. Williams?

Gentlemen, we have to break now for private members' voting time. We could take three minutes if anyone has other questions for Mr. McDonnell.

Item 1 agreed to.

Vote 1504 agreed to.

Mr. Chairman: Shall we then adjourn until tomorrow morning following routine proceedings to start with vote 1505, property rights program?

The committee adjourned at 5:47 p.m.

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Treleaven, R. L.; Chairman (Oxford PC)
Walker, Hon. G. W.; Minister of Consumer and Commercial Relations and Provincial
 Secretary for Justice (London South PC)
Williams, J.; Vice-Chairman (Oriole PC)
- From the Ministry of Consumer and Commercial Relations:**
Coleclough, A. A., Director, Investigation and Enforcement Branch, Business Practices
 Division and Deputy Athletics Commissioner
Gray, C., Ontario Athletics Commissioner
McDonnell, W. R., Director, Ontario Racing Commission
Simpson, R. A., Director, Business Practices Division



Ontario

No. J-20

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of Consumer and Commercial Relations



First Session, Thirty-Second Parliament
Friday, November 20, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, November 20, 1981

The committee met at 11:24 a.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(continued)

Mr. Chairman: Gentlemen, shall we commence?

Mr. Philip: While we are waiting for Mr. Simpson, because that will be the appropriate vote, I wonder if I can ask the minister for an update on a different vote. With my having Housing estimates in the other committee, I have not been able to get into this committee as often as I would like.

I know you made some mention in the House yesterday and there was a question on it, but I have a constituent, a young man going to university, who paid \$762 for automobile insurance for six months. It was with a broker, and the money then went to Pitts Insurance Company. I know you are familiar with the case because you mentioned it briefly in the House yesterday, I believe.

What it means is that he is literally without a car because now the broker wants \$416 for an additional three months to a new company. Is there likely to be any settlement on this? Is Pitts a Canadian company?

Hon. Mr. Walker: Yes, Pitts is a Canadian company, incorporated nationally, and its head office is in London. It is not to be confused with Pitts Life Insurance Company which is separately operated.

Mr. Philip: They made that distinction in the news.

Hon. Mr. Walker: It is functioning and continuing to function reasonably well. Pitts Insurance Company did provide insurance for automobiles and a lot of motorcycles. In October the federal superintendent of insurance, Richard Humphrys, took it over and has now put Clarkson Gordon in there to actually run it.

They took control of the assets, and its authority to transact business was withdrawn in our co-licensing. You know how we work with this licensing deal. The federal government licenses, and then we do a rubber stamp on the

licence. We do a licensing as well. We license the contracting part of it and they license the insurance part. That goes back to the Great West Saddlery Company Limited decision of 1921 constitutionally in the Privy Council.

Mr. Philip: In a sense, the financial status is the federal responsibility, whereas the way in which they sell the insurance is yours.

Hon. Mr. Walker: That is right. The area of contract is our area. What we did was to say, "Okay, people, it is wise for you to get out of Pitts Insurance Company because of their capacity to pay claims should there ever be an accident." You have accident insurance and in some cases you have surety bonds, and those are now to some extent in jeopardy.

Technically speaking, yes, you have insurance; therefore, under the compulsory requirements, your driver's licence is okay. Our issue is this: We question the capacity of the company to pay a claim. That being the case, you had better get out of that insurance and get into a different company. Granted, you will lose part of your insurance; you will lose the benefit of the premium you paid. If you paid \$200 for insurance, you may have consumed six months of it and have \$100 as the unexpired portion of your insurance. It is the matter of that \$100 that comes into question.

Presumably, the person can get insurance elsewhere at whatever their rate is. There are companies that have moved in to help as much as possible and which recognize the fact that people are spinning out of Pitts, so they are picking them up.

That represents a very tiny portion of the Ontario vehicle insurance, less than one per cent of the total vehicle insurance in Ontario. The question then comes to this: Do I get my \$100 back for the unexpired portion? That can be the subject of a claim made against the receiver. The receiver is Clarkson Gordon on behalf of the federal superintendent of insurance. Presumably, people will now submit their claim to the liquidator for the unexpired portion of their premium and they may well get a fair chunk of that back.

Mr. Philip: His insurance broker has written

to him and said, "I requested a return of your unearned premium from Pitts Insurance Company, but this will no doubt take many months and the expected return on the dollar is not likely to be more than 10 cents." What you are saying is he should be able to get his premium back, or whatever portion of his premium would remain?

Hon. Mr. Walker: I am not saying that. He is entitled to claim, and the extent to which his claim is returnable will depend, of course, on the liquidator's assets, and no one can tell that at this moment. There is a fair amount of assets.

Mr. Philip: If I provide you with a photocopy of this file, would you have somebody write to him and explain to him the process?

Hon. Mr. Walker: Sure.

Mr. Philip: The other question—I am still waiting for Mr. Simpson.

The Vice-Chairman: Mr. Simpson has arrived now. Mr. Simpson, would you come forward?

Mr. Philip: While he is coming forward, I have just one more brief question on the insurance issue. I have written a letter to you and also to the Minister of Transportation and Communications. I have a constituent who is a businessman in my riding, one of the well-respected, very well-liked factory owners and—

Hon. Mr. Walker: Is this man a capitalist?

Mr. Philip: He is a New Democrat, but he is a very successful businessman.

Hon. Mr. Walker: A New Democratic capitalist, a socialist capitalist.

Mr. Philip: We have lots of them. You people still do not understand that, do you? You have no understanding of the political process. Some of us were successful before we were elected as New Democrats.

Hon. Mr. Walker: And you have not been successful since. Is that what you are telling us?

Mr. Philip: I seem to be successful in making your life as awkward as possible, which is what I about to do.

Hon. Mr. Walker: Now that I have that admission, I am going to raise my privileges in front of the Speaker.

11:30 a.m.

Mr. Philip: The issue was that this fellow obtained five speeding tickets but lost no points. His insurance company then cancelled his insurance. As a businessman driving a company car a great deal, he had not lost any points and he had never had an accident. Is it right that the

insurance company would arbitrarily then cancel his insurance on the basis of information obtained from the government, information that did not show he had driven recklessly or even lost any points? Now it worked out fortunately for him because he went and shopped around and got a better price for the insurance on his car from another company. If he had gone to Saskatchewan he would have got it even cheaper.

Hon. Mr. Walker: He would have paid throughout the general rate.

Mr. Boudria: If it had been a woman, on the other hand, she may have been discriminated against.

Mr. Philip: It was only Trudeau who discriminated against women, I believe. He was the one responsible for the charter for the constitutional package.

The Vice-Chairman: I think we are rambling here. This was supposed to be a short question, Mr. Philip. It started about five minutes ago.

Mr. Philip: Well, if I would not be provoked constantly, Mr. Chairman—

The Vice-Chairman: Let us get to the point.

Mr. Philip: Do you feel that is correct? Is that something your superintendent of insurance would look into? He does not want to go back to the company, but he feels that some other person may have that kind of injustice done to him without any kind of appeal process.

The Vice-Chairman: Can you hand him one of those one-liners you gave this morning?

Hon. Mr. Walker: I would like to take a look at it. The general observation I would make here is that we think a person's insurance premium should be subject to two things: one, the driving experience, that being accidents, the history and that kind of thing; and, two, the incidence of contravention of the law in terms of speeding and reckless driving or careless driving or charges under the Criminal Code or under the Highway Traffic Act. In this case, this person in a relatively short period of time, I gather, had five convictions.

Mr. Philip: In the three-year period.

Hon. Mr. Walker: In the three-year period, he had five convictions for speeding under the Highway Traffic Act, but not of sufficient magnitude to warrant points in any of the cases. Certainly I think he should be one to whom they should attach some attention in terms of perhaps the premium adjustment because his record is not a good record. Many people go

without a ticket for years and years. To say he should have his insurance withdrawn or cancelled is probably going a bit far, but I would be interested in some of the specifics of the case and I would like to look into it a little further. In this case it worked out fine for the fellow because he got cheaper insurance.

Mr. Philip: I think he would just like a little heat put on that one company. He is a little annoyed at them and he wants to know whether this kind of thing is going on all the time with that one company.

The Vice-Chairman: All right, perhaps we could turn to the vote at hand.

On vote 1505, property rights program; item 1, program administration:

Hon. Mr. Walker: Under property rights it was agreed by the chairman that HUDAC would fit under this. It is not a perfect fit. Because of the decision of the chairman, we would like to bring back Mr. Simpson who can answer questions relating to HUDAC. I recognize he is not in charge of this division.

The Vice-Chairman: Mr. Priddle will be here next day, will he?

Hon. Mr. Walker: We have Mr. McCutcheon sitting in the bleachers over here.

The Vice-Chairman: We will deal then with Mr. Philip's concern. At the time we allowed you in this part of the estimates to deal with your problem, you said you had about 10 minutes you wanted to spend on this.

Interjection.

The Vice-Chairman: I thought condominiums came elsewhere in the estimates, Mr. Philip.

Mr. Philip: As I explained, as Housing critic I also have to be in the other committee.

The Vice-Chairman: How much time do you want for both?

Hon. Mr. Walker: I must say I do not recall condominiums being part of it. We did cover this by another vote. I think other members are interested in some of the land registry things and we only have an hour on this.

Mr. Philip: I want, first of all, to thank Mr. Simpson because every time I call him he is available, and I know he tries his best. As a matter of fact, the only time we get any kind of action out of HUDAC is when he seems personally to take an interest in intervening on behalf of constituents.

Hon. Mr. Walker: Have you got the annual report of HUDAC?

Mr. Philip: No, I do not.

The Vice-Chairman: Just before you start, Mr. Philip, I was reminded by the ministry that we just have an hour on this particular vote. I know that a number of the members have questions on the items here under the province of Ontario land registration and identification system and other matters, so I am going to limit you to half an hour on this.

Mr. Philip: I was going to ask for 20 minutes. I will try to keep it to that and not to go over.

Hon. Mr. Walker: There is an annual report for HUDAC. It was tabled in the Legislature, I think. It went through cabinet a couple of weeks ago, so it should be available.

Mr. Philip: My greatest complaint is that I constantly have to have this back and forth dialogue with Mr. Simpson. It seems that only after he intervenes do we get any kind of action. I know that that is frustrating for him. I am sure he would prefer to chat with me about things more pleasant than trying to get these homes repaired. Is it not time to take a good look at this system and at the length of time it takes to get any kind of action out of the home warranty program?

I am sure, Mr. Simpson, you will agree that some cases have been dragging on for a year and a half to two years. We gradually get them all done, not always to everyone's complete satisfaction, but usually 75 or 80 per cent of the claims are settled. It is taking an awful lot of my time, and an awful lot of your time as a senior public employee, just trying to make the system work. I wonder whether the minister has any comments on that.

Hon. Mr. Walker: HUDAC has paid out \$10.2 million in the space of the last four years, so it has a good payout record. The number of conciliations that have gone on is simply amazing, something like 3,000.

They have their problems. I rather think much of the problem involves the public's perception of what constitutes major structural deficiency. If there is anything that causes problems, it would have to be that area, would it not? People seem to think that anything that happens to their house, say, a crack in the basement, is a major structural defect. In some cases a good crack is, but hairline cracks that can sometimes be repaired relatively simply do not fall into that category.

I hope that when we get some time we might

address some of the issues of HUDAC in the area of educating the home owner on what that warranty really is so that we will not have to say, "Listen, that is not a major structural defect." Perhaps we will have to create, in simple and plain language, a definition of what is a major structural defect as a companion to these transactions and to explain, by giving examples, what has happened in the past. That seems to be the major problem area.

11:40 a.m.

Mr. Philip: There seems to be inconsistency in the decisions. I have seen two houses with identical situations where in one the inspector says, "Yes, that has to be repaired," whereas in the other the inspector says, "That is a superficial problem and it is not covered." Under HUDAC I have seen cases where they order the builder to fix up the back lawns, while in other cases they say, "That is not covered."

If there is one area where we get arguments, it is fireplaces. One inspector says, "That is not part of the major structure of the building." Another one says: "I will get the builder to fix up that fireplace. You can't be expected to spend an extra \$4,000 for a fireplace and then have it smoke. The chimney should be higher." I have even seen two inspectors come to the same house and come up with different recommendations.

Some of the problems can be explained. The good builders tell me that they pay the premiums, while the fly-by-night and incompetent builders who are competing with them and underselling them in some cases are driving up costs because they do not pay their premiums.

For example, I know a fellow by the name of Roy Young in a small town in eastern Ontario. He says he has never had a claim from HUDAC, and I believe him because I know the quality of his work. Yet there are other builders who come into that same area and go into bankruptcy, and he ends up doing their repairs and so forth.

There is a problem of quality control. There are incompetent people in the business, and the competent builders, whose prices may be a little bit higher, end up having their prices pushed even higher because they are paying the premiums for the other guys. A lot of the builders I talk to say, "We would like to see the licence of some of these guys pulled." Only the government can license, et cetera. HUDAC simply does not do that.

Mr. Simpson: I am fairly close to the corporation and have been for several years. There are

two or three things I might say. First, and it may sound heretical, I do not mind spending time on those complaint situations. If there are difficulties and delays, and issues that need to be surfaced, it is important that we see to them.

It is as a result of complaints and things brought to our attention, and a number of members from all sides of the House do just this, that we get the opportunity to poke into the files, ask questions and review policy. We meet with the top executives of the corporation regularly, certainly no less than every two months, for a lengthy meeting to review files.

As for the last couple of years, I do not know what it is about you, Mr. Philip, perhaps it is your industry, your constituency or something, but your experience is not typical.

The number of situations that come to our attention is enormously reduced from what it was a few years ago. I would say that I and one of the lawyers on the board of directors of HUDAC who works with me handle most of these things ourselves. We find that the number of situations being brought to our attention, the number of delays and so on, are markedly reduced. There is no question about that.

Mr. Philip: You have to admit that the cases I have brought to your attention have all stood up. They are serious cases.

Mr. Simpson: Yes, changes have had to be made. Things are being done, as you know. Mr. Locke himself went out and inspected the homes and is bringing about a number of things.

I do not think there is any question that the warranty corporation is changing some of its offices and its staff. I think that it started out with a staff that was drawn primarily, as one might expect, from the rank of building officials, former building inspectors and so on. In the last two or three years there has been quite a turnover of staff, and they are continuing to make changes to bring in people who are more oriented towards making decisions and who have concepts of justice and what is a just settlement.

I do not think this relates to your specific problems, but one of the things that seems to cause problems, and they are working to correct it, is the rather natural concept that the first recourse is to the builder to get things done. One of the problems they have found and continue to find is that they will give a builder an opportunity, indeed, an order, to do something, and he will give them assurances that it will be done within 30 days, say. After 30 days go by, you get the stories that "The foreman is sick," or

"The tradesman who was coming back to do it is the best guy, and he is now working in Kitchener for a couple of weeks."

What they have been doing for about 18 months now is to crack down on that kind of thing by saying, "Okay, here is the story. You have this amount of time to do it. We will try to be reasonable." I am sure that in some cases they give an extension, particularly where the trade involved is in another community. The guy may be working in Kitchener for another week or two, but after this deadline has expired they get somebody else. They make an arrangement with another contractor to come and do it properly, and they send the guy the bill. If he wants to get registered for the next year, or if he wants to get any more houses registered in the program, he pays the bill. This has had a very salutary effect.

Concerning the complaints we dealt with recently for yourself, Mr. Philip, I had not realized that they go back so far. I think those homes were sold in early 1977. Those were certainly among the numerous complaints in that huge collection of about 1,500 open files in 1979 or 1980 that they were trying to work their way through. They had a tremendous backlog at one stage.

Mr. Philip: During the Christmas holidays I plan to go into a new development in my area to tell them to bring me more complaints.

Mr. Simpson: So I shall see you in the New Year.

Mr. Philip: I admit that I drum up business for you, but they are legitimate complaints.

Mr. Simpson: They were legitimate problems. As I said, I was not aware that those homes went back to 1977. I was a bit surprised. I thought, "Wait a minute. That is not consistent with the way they are doing things now. How could this have happened?" Then when I checked the files, I found that they go back to that period of time when they had a huge backlog.

HUDAC is not perfect, but I am more and more satisfied at our meetings every two months where we review all the open situations and review their policies. We ask about their staffing, their organization and the claims. We are getting a better picture all the time.

Hon. Mr. Walker: Remember that they are dealing with questions of quality, which is subjective. What one person might see as a complaint, certainly in the eyes of the owner, might not be the same way in the eyes of the

contractor or in the eyes of a disinterested party.

Mr. Philip: Mr. Simpson will confirm that for every one I have sent to him, with maybe one or two exceptions, I have personally visited the homes and inspected them myself. I drink a cup of coffee with them in their basements and check things out there. I do not submit claims for unwashed windows and so on. The claims have stood up.

In the case of New Love Court, what happened to that building? Here was a case where a builder had about four streets. New Love Court, as I remember, is one of them. He had different subcontractors. After every four houses, he changed subcontractors, and I believe he also changed his corporate name.

Mr. Simpson: I do not know. I have never asked for, nor done, a thorough investigation of the corporation.

Mr. Philip: But if that kind of fellow appears under another corporate name, he will get licensed again.

Mr. Simpson: No. I think we went through this at the time the Condominium Act was being addressed because it was raised as a related issue. There is no question that HUDAC can pierce the corporate veil and look at the individuals involved.

The only time I think that could be a problem, Mr. Philip, is where there is a consortium where one individual, who may have been less than pristine in the past and is perhaps one of six members who has a five per cent interest in a development and is not going to preside over the construction. I could see a situation where he might survive and continue to exist as part of such a building consortium, but not as the prime player.

I do not see their files every day and obviously I am not aware of every registration decision, but I would be mighty surprised if a bad guy showed up again as a prime player, particularly since nowadays he probably owes them money.

Mr. Philip: So he cannot have his brother-in-law act as a front for himself?

11:50 a.m.

Mr. Simpson: Now you are speculating on a situation, and it is the old story—unseen, invisible, no money, no shares, no registration. If there is a guy away back there somewhere who is visible to nobody, who is a money man of sorts, you are talking then about things I am not sure how anyone would deal with. It is the building industry. Notwithstanding that there

are now almost 4,000 builders, it is not a big fraternity and it is hard for someone to hide; it really is.

Mr. Philip: In Cadillac I have had one complaint, and they have put up more new houses than any other builder in my area. I do not know whether you have had other complaints about Cadillac.

Mr. Simpson: No.

Mr. Philip: It is just one builder who has put up the major number of houses; yet I get some of these other guys and with every house there are major structural problems. There is obviously a quality control with certain builders. I am not promoting Cadillac over some other builders, but I just say that my experience has been that if one builder can do it properly, there is no reason why the others cannot.

Mr. Simpson: There are quite a lot, and the number would probably surprise you, including some names that have been in the news with the relative—I am looking for the right word—I was going to say paucity. Very few complaints arise. There are a lot of builders in that situation, including some builders who market a large number of fairly low-priced homes.

Mr. Philip: In my area the major complaints are with \$150,000 homes.

Mr. Simpson: That is right. It is not an indicium of quality by any means. There are a number of builders who are very quick with their after-sales service.

Mr. Philip: I wonder if I can ask you about the premium. The premium now is about \$105 or \$110 per home?

Mr. Simpson: No, it is on a scale.

Mr. Philip: Who is supposed to pay the premium? Is that built into the cost of the home and paid by the builder?

Mr. Simpson: Yes.

Mr. Philip: I have a situation here that I was going to bring to your attention privately, but I think it is an interesting case that you may have run into before. This fellow bought a house, but the builder had had trouble selling the house in the slower market a couple of years ago, even though he built it after the home warranty program came in. For two years the builder rented out the house.

Now he buys what he sees as a new home and expects that it is covered under a warranty. Instead, the first time he makes a complaint, the builder sends him back \$105, which he says is his premium because it is not covered under the

HUDAC home warranty on the grounds that the builder rented it out and, therefore, it is not a new home.

I have a statement of adjustments by the lawyer with a refund of \$105—"allowed vendor's HUDAC enrolment fee returned." I have the law firm saying they are refunding the \$105, which is their part of the home warranty program, because he rented it out and, therefore, violated the home warranty. He has a basement that is leaking and he says, "I do not want the \$105. What I want is the basement repaired. I thought I was buying a new home and that, therefore, I would be protected under the home warranty program."

Mr. Simpson: I would like to take that on the terms that you were originally going to offer because I would like to look at the original offering, what the builder represented to the purchaser and things like that. I could not deal with it off the cuff; I would like to look at that. The builder may be in a spot of difficulty over the original representations to the purchaser, but I would have to look at the documents and look at the circumstances.

Mr. Philip: I have it here.

Mr. Simpson: I would appreciate that opportunity.

Mr. Philip: Since I do want to keep my remarks fairly short, I would like to deal with the whole issue of Condominium Ontario. Rather than putting Mr. Simpson on the spot, so to speak, I would like to speak to the minister about this because I think it is a policy matter.

Many condominium owners across this province have rejoiced at the demise of Condominium Ontario. I had mixed feelings because I thought that perhaps with the election of Dr. Donnelly, if anybody could pull it out, he would do it. But even under him the thing had gone into such disrepute and had made such a mess of things that I guess they were not able to save it.

Here was a cost to the taxpayers of \$460,000. Is that the correct figure of what you wasted on Condominium Ontario?

Hon. Mr. Walker: That was the investment if that is indeed the figure.

Mr. Simpson: Actually, Mr. Philip, I think when all is said and done it is \$660,000.

Hon. Mr. Walker: Remember, it served a purpose.

Mr. Philip: I got the \$460,000 out of your office.

Mr. Simpson: I know you did. Your researcher called me about three months ago and asked what was the figure. I said, "Graham, to the best of my recollection, it is around \$460,000, but you had better call me tomorrow and get a correct figure because I will get it exactly for you." My assistant, who knew it to the last dollar, was not there, but Graham never called me.

Mr. Philip: I think somebody else did call and got a different figure.

Mr. Simpson: No, a reporter called. The next day the Etobicoke paper called and by then my assistant had arrived and had given me the total figure right to the last dollar, which I was able to give the reporter.

Mr. Philip: So it is even higher than that. This was an organization about which the condominium associations and the condominium owners came before this committee and said, "We do not want this. We particularly do not feel that it is right to tax us for something we did not ask for," namely, the levy. In spite of an understanding by two members of the Liberal Party on the committee, Mrs. Campbell and Jim Bradley, who were empathetic to their arguments, suddenly these two people disappeared and the Jim Breithaupts came in and voted with the Tories and also voted in the House.

With this combination of Liberals and Conservatives, we had an organization the people had not asked for, that was contrary to your own report, the Kealey commission report, which I think has a lot of excellent recommendations in it. I have a lot of respect for Darwin. His report called for a registrar of condominiums. The registrar of condominiums would have had some teeth to do some things in condominiums. It was your ministry's own report. They had gone around the province spending a lot of money on having hearings. Condominium owners, construction companies and condominium management firms had come before that committee, and Darwin turned out what, with one or two exceptions, one or two recommendations, was a good report.

Instead of following that, you imposed this thing called Condo Ontario. A whole series of just deplorable situations happened. At the time, though you may not recall it, I charged that there were constitutional problems with it. It was only after Robinette voiced the same opinion, the chairman of the Law Society of Upper Canada did some research and came to the same conclusions, and we raised money to

sue the government on it, that you suddenly cancelled it just as it was coming up to court, with Robinette being free from the constitutional problems and concerns of the federal government to get into court to test it. Did you cancel it because you did not want to have another setback in court, another constitutional problem, or did you cancel it simply because it was not working and it was the disaster we predicted it to be?

Hon. Mr. Walker: I think what has happened over a period of time is that condominiums were a new beast in Ontario. They started in the last 15 years and came into prominence, I know in my city, in the last 10 years. There were growing pains in the beginning and the growing pains basically vanished. We have a situation now where there just are not many complaints being submitted. We get more complaints on some stuffed article than we get on condominiums.

12 noon

Mr. Philip: Part of the reasons is that your ministry, with all due respect, does not service the complaints very well. That is the message I am getting from condominium owners across the province.

Hon. Mr. Walker: We thought we were. We have been rather proud of the fact that we have been able to resolve most of the issues and calm down the area.

Mr. Philip: They call your office and they are told to see a lawyer.

Hon. Mr. Walker: Sometimes it is a legal matter they have to see about. We have to be honest about it. We could get in and fuss around on it, but if it is a legal question, if it is a question of contract, the law society would naturally jump down our back if we tried to resolve it on our own. These are things sometimes where lawyers have to come in.

Mr. Philip: Even in cases of explaining the act, which is not resolving a complaint, or explaining to people what their rights are under the act, I know of condominium associations that have gone to the ministry and have been told to contact a condominium lawyer.

Hon. Mr. Walker: Sometimes that is the obvious thing to do because they can get better advice. I am certain there are times when we provide certain views and certain observations on what their rights are under the act. I read the article you wrote in Condominium magazine or paper, just this past issue. I sense you were supporting 100 per cent what we were doing,

and I think those who were the authors of the magazine sensed you were supporting what we were doing in terms of that.

Mr. Philip: The cancellation?

Hon. Mr. Walker: Cancelling it.

Mr. Philip: Yes, but I was not supporting your wasting half a million dollars before you finally came to the conclusion I had come to two years ago.

Hon. Mr. Walker: It calmed out the area a great deal, and we still have a vestige of it remaining. We still have Pen Smith under retainer now. He is acting on behalf of condominiums. People telephone in, register a complaint and can hear from Pen Smith, who is the chairman of Condominium Ontario and a condominium regular owner himself, as opposed to a builder. He is providing quite a bit of service through that. We have regularly manned telephones. We just think the area has calmed down dramatically. There just are not any problems out there today.

Mr. Philip: Let me tell you this, and I want to get it on the record—

Hon. Mr. Walker: That is almost brushing it a bit too widely. Sure, there are individual problems and we will forever have individual matters to deal with, but that is the case in everything. Generally speaking, you would have to agree that things are a lot calmer today, things are a lot more resolved, the issues have ironed out, and there just is not the degree of excitement that was here four or five years ago. You would recognize that.

Mr. Philip: Some of that is because the community colleges on their own initiative have been running programs for condominium boards of directors and so forth.

Hon. Mr. Walker: Good for them. That is just exactly what we would encourage.

Mr. Philip: Let me put this on the record because I want to be able within the next two years to say I told you so.

The Vice-Chairman: I hope you can put it on in three minutes, Mr. Philip, because your time will have run out then.

Mr. Philip: I want to be able to say I told you so, that you did not listen to my advice and that you are at fault therefore. Let me put on the record that there will be a major scandal with a management company ripping off in the vicinity of hundreds of thousands, or possibly even millions of dollars, that will be the Re-Mor of the condominium industry, and that you refused to

accept the advice of the better management firms and of condominium associations, such as the Etobicoke Condominium Association, that have asked for a registration and a licensing of condominium management companies. Practically anybody, without qualifications, if he can hoodwink a board of directors, can get into managing—

Hon. Mr. Walker: You are underrating some of these boards of directors. They have a little more competence than that.

Mr. Philip: I can tell you that if you do not—

Hon. Mr. Walker: Do not underestimate the consumer. Do not underestimate some of these people. They are pretty sharp people. What have you got to say on that, Mr. Simpson, in terms of the question he posed a moment ago about a major calamity?

Mr. Simpson: There is no question that some condominium management corporations handle goodly sums of money. By the same token, there are boards of directors of condominium corporations that are getting smarter all the time—and this is part of the reason for the demise of Condominium Ontario—at designing the contracts which will be governing the relationship with the condominium manager and devising the control systems that are going to be in place over the bank accounts and the disposition of those funds. It is always possible that you can say, “I told you so.” It is always possible that somebody can steal money.

Mr. Philip: It is more than stealing. It is also incompetence.

The Vice-Chairman: I think we should finish this discussion on neutral ground.

Mr. Simpson: All I was going to say was that on an I-told-you-so basis, it could happen. But in terms of the competence of boards of directors these days, to address the issue of property management, they are getting better and better all the time, and the bums who may have existed in the property management field are getting the boot.

Mr. Philip: The condominiums—

The Vice-Chairman: Mr. Philip, you have had the floor for half an hour.

Mr. Philip: I have not had it for half an hour. As a matter of fact, I have had it for 28 minutes. I have two minutes left.

Mr. MacQuarrie: It is my understanding, Mr. Chairman, that when some of the sophisticated condominium corporations are contracting out

management services, they also insist on a performance bond.

Mr. Simpson: That is the sort of thing they are getting into more and more these days. They are also doing things like countersigning major cheques, limiting expenditures to a certain sum of money and the kinds of things you would expect a prudent corporation to do with respect to their agents.

I really do not want to get into your issue with the minister about policy because going back through history is a political exercise, but just from my point of view I had a lot to do originally, with two or three others, with the conception of Condominium Ontario. One of the things we always foresaw for it was to provide a kind of clearing house for information and advice on property management and so on. It has a very valuable function in sending out sample contracts. For example, if somebody somewhere develops a great contract, it can serve as a clearing housing kind of system where that contract is sent around to a number of other projects where it can be similarly employed.

Over the last two or three years the condominium owners have spoken in the sense of finding ways to solve their own problems, in being satisfied with that approach, finding solutions through the courts, solving their own problems over property management. That is great, but there still is a need for the kind of clearing house situation for things like property management, and it is a disadvantage that such a thing does not exist.

The one thing that is clear, Mr. Philip, from our experience and the American experience, because we have followed up with Community Associations Incorporated, is that it has to be a grass roots thing. It has to come from the community. I am talking about the individual corporation level. If they are not interested and are not willing to spend the money to band together to get advice and develop a co-operative approach and share on education, there is no hope for it. It will not happen. Our discussions with the boss man at the American association has confirmed this. He says it has to be a grass roots thing.

The Vice-Chairman: Thank you, Mr. Simpson. We will move now with respect to vote—

Mr. Philip: Let me just have my last two minutes, Mr. Chairman.

The Vice-Chairman: No. I am sorry, Mr.

Philip, I said I would allow a half hour on this matter, and we have gone the full half hour.

Mr. Philip: I had 28 minutes of the time that—

The Vice-Chairman: I did not say you would be speaking for a full half hour. I said we would be discussing this topic for a half hour. Please do not abuse the privilege we extended to you. We have given you a full—

Mr. Philip: Just let me have two sentences and we will save more time than having me rise to a point of order.

The Vice-Chairman: Two sentences? All right.

Mr. Philip: In the first place, the lack of use of Condominium Ontario did not mean that the problems that it was set up to solve do not still exist. It simply means that the condominium owners did not—

Hon. Mr. Walker: No. It is not—

Mr. Philip: May I get my two sentences without an interruption from the minister? It does not mean that the problems do not still exist. It simply means that there was a lack of faith on the part of condominium owners over Condominium Ontario.

The second sentence that I want to give, since the chairman is limiting me, is that either you license—

The Vice-Chairman: I have done nothing to limit you. I have given you ample time for that question.

Mr. Philip: What we are having now with time share means that management firms have to be 10 times better than before because you have condominiumized the condominium, if you can think of it like that. Therefore, the owners of the shares are going to be even less in control. Either you get into the proper licensing of condominium management companies, or if you think you have had a problem in condominiums, that is nothing compared to what you are going to have on the time-share area. I will leave it at that.

12:10 p.m.

The Vice-Chairman: Thank you, Mr. Philip. Mr. Minister, did you want to comment and close this item down?

Hon. Mr. Walker: I think even Mr. Philip would agree with me that the problems have subsided dramatically from what they were barely four years ago.

The Vice-Chairman: Thank you, Mr. Minis-

ter. We will continue with vote 1505, item 1, program administration.

Mr. Mitchell: Mr. Chairman, thank you very much. I have had a little bit of background on the Polaris project since I happen to be associated with the ministry, but I would like to have somewhat of an update on it.

Hon. Mr. Walker: Mr. Blomsma is the lawyer and Mr. McCutcheon is the director of the program.

Mr. Mitchell: We know we are not talking about the missile here. The Polaris project is referred to in the ministry report, and I would like to have an update as to how that is proceeding. Perhaps some of the members might not be aware of exactly what the Polaris project is, so perhaps a very short explanation of just what the Polaris is might be useful and something on its current status.

The Vice-Chairman: I might say, Mr. Mitchell, I have had some interest in this over the years and I have raised this question at each set of estimates for the past two years, so I am equally interested in getting an update on what is happening.

Mr. McCutcheon: Perhaps I can deal with the update part of it first. As I think you will recall, Mr. Mitchell, a bill was passed early in the summer which accomplished some of the legal changes we had wanted, changes which were designed not only to make title searching easier, but to reduce some of the work flow in our offices, particularly at the time when the area of real estate was extremely busy. Those changes really dealt with shortening the title search in the registry system, which is probably the biggest element of work in the entire system for the legal profession because of the necessity to do a historical search and because of the state of the records which were set up that way generations ago.

What it did basically was cut off the title search at a 40-year period, many title searches before that went on for about 20 or 30 years beyond that.

Mr. Mitchell: To the good root of title sort of thing.

Mr. McCutcheon: To the good root of title. Right.

Mr. Elston: Many of us went back much further because of the problems with the very sections which were amended earlier.

Mr. Blomsma: That is right. The original intention of those sections was to cut it off at 40

years, but the case law sort of defeated us along the way.

Secondly, in that bill under the system as it previously was, you had to look at all of the documents which were on title, and in an average registry search that could be 40 or 60. Quite likely half or more of those documents were mortgages that were already discharged.

We now treat those as we do in the land titles system. We simply remove them from the title record. In fact, the ministry has funded a sizeable project to begin ruling off. We felt that would originally amount to about half the documents on title. It is turning out to be many more than that because of the rapid turnover in mortgages lately, with all the one-year mortgages around.

The Vice-Chairman: What about the 25-year period?

Mr. Blomsma: We have held that back for another look, partly because it is extremely difficult for us to determine just how many claims we would be cutting off. We took a preliminary look at it. One of the banks suggested that it has had a considerable number of mortgages which would go beyond that period. So we have undertaken to look at that again to try to come up with some more statistical information and perhaps find a means of making sure that any claims between 25 and 40 years somehow get brought forward initially at least so that nobody is cut off without notice.

The Vice-Chairman: I may have missed it in your comments, but why was the 25 year period decided upon? What was the arbitrary basis of that decision, or at least that you are looking at?

Mr. Mitchell: As a supplementary to that, I think it was the intention to shorten even that period of time, was it not?

Mr. Blomsma: No, the intention was to go down to a 25-year period, but perhaps in stages. The 25-year period was selected because through the checking we had done of our records—we had done a sampling of actual searches; I think a total of about 200—there was not a single claim, and it seems hard to believe, that would end up still being alive after the 25-year period. It was not the intention to cut off those claims. We would give a period of a year or two years for those people to come forward and register notices of their claims. The 25-year period was selected because it looked as though that would be enough so that a whole lot of people would not have to come forward and reregister notice of their interest.

Mr. Mitchell: I think I have some questions that deal specifically with registry office and registry office operations which I would presume would come under item 2. The Polaris is to improve the efficiency of all of the registry offices, is it not? It is to be able to go into a better method of storage and retrieval?

Mr. Blomsma: That is right. The Polaris project is a follow-up on the series of recommendations made by the Ontario Law Reform Commission which were then reviewed internally. The staff turned out a concept report and we are now at the implementation stage. We are busy doing both the detailed design and some implementation already this year.

Mr. Mitchell: What sort of time frame do you think we are talking about now?

Mr. Blomsma: The total time frame for the project will be somewhere between 10 and 15 years. The reason for that is we have a huge file, and any conversion of that file, for example, going from a paper to a microfilm system, or from a totally paper system where many of the entries are still hand-written to an automated system, involves conversion of a huge amount of information.

We estimate right now there are about 38 million documents on file and still alive and there are something like 30,000 record books and about 3.5 million properties in total. So it is a long effort. The latter years of that 15-year period will simply be implementations of systems that have been designed and already installed in some location in the province.

Mr. Mitchell: There is an interesting thing in the specific functions covered within the report. I notice a number of things, one that is of some mystery to me. You talk about property mapping and identification. It strikes me that would probably be a most difficult thing to put into records, other than deeds and things like that. The mapping portion of it would be a difficult process. Do you literally mean that, that you have them and you are able to produce them and reduce them to microfiche size and so on?

Mr. Blomsma: Right now we are working on a demonstration model of the property mapping system. One of the things we have been doing over the past number of years is looking at land registration systems elsewhere in the world. Although it does not seem probable, land registration is an area throughout the world where an awful lot is happening, partly because all the systems were previously paper-based and

a lot of countries and a lot of jurisdictions are looking at automation.

12:20 p.m.

It seems as if so much is happening because, as in Canada, control of land is normally a provincial or a state responsibility. The Australian system functions the same way ours does. It is in the control of the states. In the United States it is in the control of the states. There are many systems being worked on. The one common element is that they find out that in order to organize the information and to spew out information relatively quickly, they have to organize it by some form of unique identifiers—in other words, attach a name or a number to a property that is not duplicated anywhere else in the system.

You cannot do that just from the paper records, and we have tried every way of avoiding doing that. The only way of doing it is to draw a series of maps for the jurisdiction you are working with. That is what we are talking about now. This province is fortunate in some ways because it has a lot of this information already on file. We have a large number of assessment maps, for instance, which are relatively up to date and relatively reliable which we can use and by a fairly simple process, I think, transform them into those property maps we are talking about.

Mr. MacQuarrie: I was wondering with respect to computerized mapping or computer reproduction of maps and specific properties whether you have investigated the uniform system that is being developed through the Maritimes. I think Prince Edward Island is on it completely now. I know the National Capital Commission in Ottawa has had its senior surveyor on it for quite some time to the point now where one can ask for a description of almost any property area and the commission can come up with it.

The Vice-Chairman: Is that the co-ordinate system you are talking about?

Mr. MacQuarrie: Using co-ordinates.

Mr. Blomsma: We have certainly spent a lot of time looking at the system in the Maritimes. The people working on the survey and mapping part of the project are aware of what the National Capital Commission is doing. That is one of the areas where property mapping will be relatively easy to bring in because the state of its mapping is already so good. We can draw on all this information. Again, property mapping in the Australian jurisdictions and in some of the American states is fairly far advanced. Our

proposal, as it stands, involves one major improvement, I think, over what is happening in the Maritimes, and that is that because of the way their funding came over the years they tended to do all the mapping manually.

Mr. Mitchell: You are talking about the trace mechanism with the computer system?

Mr. Blomsma: That is right, and they finished off the maps manually. In the last five years many computers have become practical, cheap and very elaborate, and reasonably priced graphic systems are now available. When drawing a map, there is some judgement which has to be exercised that cannot be automated, but mapping can now be done at a fairly reasonable cost by feeding in sensor co-ordinates. The machinery is there, and it is even relatively small, to draw the maps for you. The Maritimes did some of this. Our total property file is about four times as large as the three maritime provinces put together, so we have to look a lot harder at automation.

Mr. MacQuarrie: Prince Edward Island is having problems identifying individual properties. Their original descriptions of some of those holdings were not quite as precise as some of the Ontario descriptions.

Mr. Blomsma: We have been asked before about that. They spent an awful lot of money on the project in the Maritimes. There are two major differences, one of which you just mentioned. In Prince Edward Island, they found out that over 40 per cent of the owners were squatters. Although there were properties, nothing exists. At least in our system there are surveys that show most people's properties one way or another, while these people simply were not into the system at all in the maritime provinces. My family lives in New Brunswick, and it is the same way there. Secondly, they relied much more on the manual method.

The Vice-Chairman: Are you through with your supplementary question, Mr. MacQuarrie?

Mr. MacQuarrie: Yes.

The Vice-Chairman: I wanted to put an added supplementary to that.

This summer I spent some time with the Minister of Revenue visiting some of the local assessment offices and I certainly was impressed with the activity of the assessment office relative to the mapping you referred to. I am not clear from your end as to how you are co-ordinating this effort with them in assisting in the registry system and assuring that these maps are being done in scale in a way that is uniform

and standard for use throughout the system. Is there any direction or guidelines that you have laid down that you feel are minimum criteria necessary to satisfy the needs of the registry system in dealing with those assessment matters?

Mr. Blomsma: Perhaps we should have had somebody here who is a specialist in the survey part of the project. I do know there is an interministerial task force and I have attended a number of the meetings. One of the things we have to avoid is duplication. There is a lot of mapping being done by various agencies in the province, not only in the provincial government, but by utilities, et cetera. What we are planning to do and what assessment has largely already done is a good example of that. We do not want to duplicate that work.

Mr. Williams: That is right.

Mr. Blomsma: Part of the function of that task force is to prescribe scales for maps for various purposes, and it has already done some of that.

As I understand it, much of the assessment mapping is suitable for use in our system without anything more. Some of it will require a kind of translation, using the co-ordinates, feeding them into machines, drawing the map again, but at our scale, so that our system can digest them. In terms of cost, that is a far cry from having to do the whole thing all over again. In the areas where there are not any maps, we have to get the information out of our paper records, and that is a time-consuming and expensive proposition.

The Vice-Chairman: You would have an arrangement with the assessment offices to provide for some form of reporting as to the progress they are making in this area, or is it simply self-evident from the maps they may file with the registry office? Do you get reports back from the local registrars or what?

Mr. Blomsma: Some land registrars have been obtaining copies of the assessment maps, more as an assistance to title searchers, but the people working on the mapping component of our system are aware through the interministerial task force where the mapping stands in each of the areas because, as you may know, it is not complete throughout the province. A lot of it is now done, but it is not complete.

Mr. Mitchell: Mr. Chairman, you may rule that my question would more rightly be under item 2; I am not quite sure. We are outfitting several of the registry offices. The program is

ongoing of outfitting them with terminals for title searching, which is part of this project, I would presume. I know a statement was made that if you find there is difficulty still, not enough machines and so on, you are looking at each case. I know there has been some improvement in the Newmarket and other area offices. I am also aware you went to some lengths at ours. 12:30 p.m.

I have received good vibrations about the terminals, et cetera, in the offices. You also went to extended hours and that sort of thing. I do not know whether this is more rightly under item 2, but I would like to know whether the extended hours program you entered into is going to be continued, or what you found with it. Will that be necessary, with the terminals and the additional ones you are preparing to put in?

Mr. Blomsma: Perhaps I can answer the first part. Mr. McCutcheon, who is in the operational area, can answer the second part about the extended hours.

So far the Newmarket office has gone partially to the microfilm document-keeping system that we recommended and the rest of the implementation will be completed by February 1. We have another two planned throughout the area. The second major part of automating the offices is to put the information in the title books, the parcel registers and so forth, in a computerized program. We are just building what our systems people call the demonstration model for that now. Again, that will be available to look at.

Mr. Mitchell: May I just interject at this point because this is where I am somewhat vague? What are we talking about? When you talk about microfiche, you have a microfiche viewer and then you ask for a copy of that particular record. Are you also talking about a terminal where you can, by typing in your requirements, get a hard copy of a specific document?

Mr. Blomsma: The system is made up of two parts which are not necessarily related, although they can be. They are compatible.

Mr. Mitchell: It may be me that is putting them together because I see it all as part of an improvement to a situation.

Mr. Blomsma: One part is to put the documents on microfilm. Again, we are fortunate because we always used microfilm for security anyway, so most of the microfilming has been done. Then it is necessary to provide automated viewers to look at the microfilm, and the

viewers have the additional capacity that you push a button and they produce a copy.

Mr. Mitchell: That is what I was asking.

Mr. Blomsma: You avoid all that process of going to the counter and filling out a slip. In Newmarket it is intended that the operation be self-serve, since microfilm can be—

Mr. Mitchell: A coin-operated sort of thing?

Mr. Blomsma: Yes. Since microfilm can be produced in a number of copies, we are not worried about losing them, as we are with the documents, because we have other copies behind the counter. We just put them out in the public area and you can find the documents you want.

The Vice-Chairman: You microfilm all documents?

Mr. Blomsma: Oh, yes, we always do.

Mr. Elston: I have a question on employment. I guess that may also be in operations. You will be running this thing with a very small number of staff when this program is in existence if they are self-serve?

Mr. Blomsma: Maybe Mr. McCutcheon should talk about this, but taking the Newmarket office as an example, all it will do, I believe, is to relieve some of the pressure on the staff and eliminate some of the backlog lawyers have to put up with. Now those people will be able to look after some of the abstracting.

Mr. Elston: In terms of adjustment for the staff at the office, they will not be running around retrieving documents, but they will probably be picked up in some other capacity.

Mr. Blomsma: It is also intended that some of that staff time over the next number of years will be devoted to getting out some of the information we need for building the property maps.

Mr. Elston: They may be able to devote some of their time now, when the run is not so hard, to the other services.

Mr. Blomsma: Even with the big drop in registrations, there are still backlog problems because of the manual operation of the system.

The Vice-Chairman: Mr. Elston, is that all registry down your way in Wingham or is that some land titles?

Mr. Elston: It is virtually all registry. Very few areas are in land titles.

Mr. Mitchell: Following on that line, if I may, I had the opportunity to meet with a lawyer, as Mr. McCutcheon is aware, who had registered some complaints with the operations within the

office. After the meeting that was held, that problem seems to have been resolved with the exception that one question was raised by the lawyer. That dealt with the fact that some law firms employ a number of people to do nothing but title search. All they do is sit there all day long. Here we are putting in terminals, or whatever, for them to do that.

If that is the case, if law firms are employing banks of people, where do you draw the line at how long they can sit at one of these devices? In fact, can you do that, or is that really going to govern the number of these devices you are going to have in each office?

Mr. Blomsma: The installation in Newmarket has been gone over a couple of times to make sure we are ordering the right number of machines because automatic microfilm readers are relatively costly. You have to remember that searching lineups are not like registrations which all have to take place one Friday at the end of the month. The searching is done over a period of time, so the searchers have some control over their time. We think that there simply will not be any lineups.

It is already in operation for part of the system in Newmarket. We put in six machines. I have been up a number of times and I have never seen more than two of them being used, so I hope we are more than covered.

Right now you have to put in a requisition slip for all the documents you need, and it could take half an hour or three quarters of an hour for the staff to find the documents, particularly if it is a long search. Here, at least, if there are half a dozen days during the year when you have to wait for a machine to become available, you have the advantage that you can grab all the reels you want and wait for a machine to become available. I think the tradeoff will be in favour of a shorter time.

Mr. Elston: We are talking about the number of outlets per office. Is there any decision as to how many offices you may have or will there be a reduction of offices? I am concerned about our area where we have two counties, with Goderich the county seat of Huron and Walkerton in the county of Bruce. They are large areas but the offices, compared with Newmarket, for instance, probably do not do the same sort of volume. What sort of plans do you have for those areas?

Mr. Blomsma: Perhaps someone else should talk about the policy of the number of offices, but what I can tell you is that the project was

costed on the basis that the present number of offices would continue to exist. As it turned out, the functions we intend to automate are handled by machines that are so small and so cheap nowadays that we are not forced to reduce the number of offices just to make the whole system pay. It is not that kind of a situation.

To computerize an office environment takes maybe \$20,000. We have a large file, but it is pretty stable. There are many millions of documents in the file, but only 3,000 or 4,000 properties a day get dealt with at the very most. It is not what you would call an active file.

Maybe Mr. McCutcheon can deal with the part about the extended hours.

Mr. Mitchell: Yes, that is my final question if Mr. McCutcheon could answer that.

Mr. McCutcheon: Yes, Mr. Mitchell. Historically, the hours in the offices have been from 9:30 until 4:30. During our busy period, which is usually from May until October, in the larger offices, especially in the Toronto core, we have been forced to turn people away at 4:30 because by law registration can only go on until 4:30.

In the month of August it was decided that for this year on particular days—usually those days which are the fifteenth, the Fridays and the end of the month—we would extend the hours from 4:30 until six. That was not to extend the hours just for registration, but for search purposes as well. This year at the end of August there was not the tremendous need for registrations we have had in the past. Therefore, in September and October it did not prove as fruitful as it did in August.

12:40 p.m.

We are reassessing at this time what we will do in the coming year which will start in April. At this time it appears we will be looking at the idea of leaving the office open beyond the hour of 4:30 to accommodate those people who are lined up and ready with their documents for registration at the hour of 4:30. That would eliminate the lineups. This is what we intend to do through the months of April, May, June, July, August and perhaps September. Nothing has been firmed up on that yet. We are still in the discussion period.

The Vice-Chairman: Does that not create a technical problem in the sense that your documents are time-stamped? You say you have a lineup of people waiting at the closing hour of 4:30, but the actual time of filing those documents is going to go beyond the recognized time frame set out in the statute. Unless appropriate

regulation is introduced to deal with it, as we did with the extended hours situation, they would not be legally acceptable documents. I suppose you are assuming that the regulatory process would take care of that situation.

Mr. McCutcheon: That is correct. We have discussed this with a group of lawyers who meet with us once a month. They are of the opinion that legal changes can be made to adjust to that.

Hon. Mr. Walker: It would certainly make it a lot more convenient.

The Vice-Chairman: So 4:30 is the closing time for the day, but those who are in the office when it closes, as is the case in a bank, are permitted to go ahead and continue registration?

Mr. McCutcheon: That is the whole idea.

The Vice-Chairman: What time period would you allow for accepting them as formally registered documents? What official hours would you permit?

Mr. McCutcheon: We are working on the premise that we would eliminate the lineup.

The Vice-Chairman: I know that, but for time-stamping the documents it is important from a legal point of view whether one document is registered before another one in point of time. So that has to prevail up to an official time period. For instance, would they not be permitted to be accepted for registration that day beyond five o'clock or 5:30?

Mr. McCutcheon: We have been working on the premise that we would time-stamp right until the last person is there.

The Vice-Chairman: I think you will have to get some type of regulation approving that. I do not know whether you could leave it open-ended, but I guess that is a mechanical and technical matter that has to be worked out. I know from a practical point of view what you are trying to do and I do not quarrel with it. I am just looking at the legalistic problem.

Mr. Elston: It beats what used to happen on busy days, particularly in London, where I articulated. We used to have lineups which would extend almost the full length of the office, even in the new office. We used to have a lot of documents that were timed at 4:30.

The Vice-Chairman: It is worse than the post office.

Hon. Mr. Walker: If you think it is bad there, take a look at some place like Toronto where it is much worse. How late did you go to that night during the experimental period?

Mr. McCutcheon: Until six o'clock. The hours were from 4:30 until six.

Hon. Mr. Walker: I thought there was one night that you were registering right up until about eight o'clock.

Mr. McCutcheon: No. The hours were closed off right at six o'clock. As it is, if we go into the new system in the spring, we will have to stay there until all the registrations have been accomplished. There were only four offices in which we made this trial run, the Toronto land titles, Whitby, Brampton and Newmarket.

Hon. Mr. Walker: Those, I may say, are the worst in the province in terms of volume; at least three of them are—Brampton, Newmarket and Toronto and, to a lesser extent, Whitby.

Mr. Swart: I do not have a supplementary; I just wanted to get on the list. I would like at some point while we are on this to get some updated information relative to land titles.

The Vice-Chairman: Mr. Mitchell has the floor at the moment.

Mr. Mitchell: I am finished.

The Vice-Chairman: All right, let us go to your question then.

Mr. Swart: I wanted to get some update on where the province is at with regard to land titles and the general policy in the province. When I was on county council I was rather instrumental, along with some other people in the area, in getting the Land Titles Act to apply to the county of Welland. I confess that I am not up to date on what is now taking place across the province with regard to land titles. It seems to me the arrangement is far superior to the registration system. I know all the difficulties of bringing lands which are registered and which perhaps do not have maps and clear titles under the land registrars.

Perhaps the minister will want to answer this question. Are land titles available in all of the registry offices across the province? Secondly, is it being promoted? Is it compulsory for new subdivisions in all areas of the province to be brought under land titles? How active an effort is being made to promote land titles?

In years gone by there was some opposition by the legal fraternity to land titles because they felt that in the short range, and perhaps in the longer range, it would mean less work for them than if they stayed under the registry system. I am wondering if I can have those questions answered at this time.

The Vice-Chairman: I have never heard anyone yet argue about less work.

Hon. Mr. Walker: I must say I found working under land titles took about the same amount of work as working under the registry office.

Mr. Swart: Let me rephrase that a bit. The legal fraternity in Welland, the local law association there, opposed it. While you are putting it under land titles, it may make more work, but they told me privately that once you get it all under a land title system such as they have in the west, there is less legal work.

Hon. Mr. Walker: Mr. Crosbie is particularly well versed in this subject and has a comment to make.

Mr. Crosbie: Mr. Chairman, I think the member would be interested in looking at the aim of the Polaris project. Mr. Blomsma earlier indicated that it was an outgrowth of recommendations in the law reform commission. One of the options available when we looked at the problem of having a dual registration system was to go 100 per cent to the land title system.

One of our concerns about that was that the land title system costs us about 50 per cent more to operate than it does to operate the land registry system. We felt some improvements could be made in the land title system. There was also the problem of the cost of conversion and whether you impose it and compel everybody to change over. We thought a better approach would be to have some phasing in, and the time frame mentioned this morning was for a period of 10 to 15 years for the implementation of the Polaris system.

What the Polaris system is attempting to do is to bring the land titles system and the registry system closer together. This will be a combination of the use of both systems, but we are upgrading the quality of the registry system. We are going to be using certification of titles so that plans will be certified. We hope over a period of time to bring a certified title in the land registry system to a closer date in time than the historic 40-year search.

12:50 p.m.

Eventually, by a combination of computerization, searching and the elimination of things like the mortgage entries on the registers where the mortgages are discharged—they will be struck off the list—we will substantially reduce the information that is needed in the registry system. The long range also includes the improvement of the type of document that is used in the registry system so that it is more

adaptable to a computerized system. In the end result, the two systems would come close enough together that you could blend them or wind up with a single system without any revolutionary change taking place in any single point in time.

The Vice-Chairman: Mr. Crosbie, that is not only more costly to the administration, from the government's point of view, but to the consumer as well. It is much more costly to have to go the land titles route to get your land put into the land title system.

Mr. Swart: There are tremendous advantages once it is there. I may be out of date on this, but are land titles available at every registry office now?

Mr. Crosbie: No, not at every registry. Some years ago I think there was an emphasis placed on encouraging the implementation of the land title system in other parts of the province. I would say we have pulled back from that because we see the solution is going to be the Polaris approach rather than conversion to land titles.

Mr. Swart: Is the Polaris approach going to be a province-wide approach?

Mr. Crosbie: Oh, yes.

Mr. Swart: What areas of the province are not covered by land titles at the present time?

Mr. Crosbie: Perhaps Mr. Blomsma or Mr. McCutcheon could give us details of the areas.

Mr. McCutcheon: A lot of southeastern and southwestern Ontario is registry office. All of the north are land titles. Down in the southern part of the province there is a mixture of both land titles and registry office. Slightly less than half the offices can provide the land title service. There are 65 offices in the province.

Mr. Swart: I presume that would be for a far greater number of people—well, I should not presume. Would that be available to far more than 50 per cent of the population? For instance, in the York-Toronto region land titles would be available in all the registry offices in this area?

Mr. McCutcheon: That is right.

Mr. Swart: Could you break down what area of the province in percentage of population—

Mr. McCutcheon: I could not give you those numbers. Toronto itself is split. We have two Toronto offices here that are completely registry offices and one office that is completely land titles.

Mr. Blomsma: I think you are asking whether

the number of offices that have land titles represent a certain percentage of the population. We looked at that once and I think we are talking about at least 80 per cent. Most of the areas where land titles are not available are the rural counties in eastern Ontario and some of the places in southwestern Ontario.

Mr. Swart: That is what I was going to ask. Even in those areas where they are not available, because it would be done by county, I presume, in those areas there are towns and perhaps cities included in those areas where it would not be available. That would mean that new subdivisions in those areas would not be available to have the land titles. Of course, we all know that the real advantage, and without much cost, is at the time the subdivision takes place. There are areas of the province where that situation still exists for new subdivisions. Even in some of the cities they do not have the land titles.

Mr. McCutcheon: That is correct.

Mr. Blomsma: I think the problem we run up against is the cost of conversion. The province still encourages moves to land titles in certain circumstances. For instance, where a new plan, as you say, is being registered in an area where land titles are available, you have to bring the land under the Land Titles Act. Now that amounts to about 600 applications a year. That is an awful lot of money the way we do it now. If we projected that to the remaining parcels in the registry system, we would be talking about, I would think, a totally unacceptable cost. I think a few years ago we figured out \$130 million to convert the remaining.

Mr. Swart: Perhaps I am not understanding exactly what you are saying. When you say it cost \$130 million, are you talking now about putting all properties under land titles?

Mr. Blomsma: If we were to do that, yes.

Mr. Swart: You are certainly not talking about putting all new subdivisions under land titles?

Mr. Blomsma: No.

Mr. Swart: They are not tremendously expensive to bring under if you bring them under at the time the subdivision is being registered.

Mr. Blomsma: In terms of the work our staff does, the per unit cost for putting a subdivision in is still relatively high.

Mr. Swart: But it is not nearly as high as it is after the properties have been transferred. Is

that not true? I am talking about the time when there is one owner on the land.

Mr. Blomsma: I see what you mean; yes, that is right. It would be a lot more expensive once the lots have been sold and individual owners applied.

Mr. Swart: It is certainly a real advantage. I guess that is the point I am making. It seems to me from my rather limited knowledge of it, and knowledge which goes back many years, there is an awful lot of advantage to be acquired across this province if you have the staff available. I realize there are some difficulties there. For the registrar at Welland at the time, it meant the shifting around of some personnel. The person was not able to handle the land titles.

The Vice-Chairman: I do caution you though that it is not without some disadvantages as well over and above the cost factor.

Mr. Swart: Of course, nothing in human institutions is all black and all white or all perfect, but on balance I do not think there is any question in my mind at least that the land titles have a tremendous advantage. When you bring in the new program, that may even be better, providing we proceed with it.

Hon. Mr. Walker: We have a big investment in it already.

The Vice-Chairman: Are you finished, Mr. Swart?

Mr. Swart: Yes.

The Vice-Chairman: I have one question left. I have allowed us to talk about items 1, 2 and 3, all under real property. We may be able to carry those items today. I am not sure whether people had questions under item 4 which deals with personal property, which is something a little different.

In winding up on the first three items, I would be interested in knowing what this new arrangement is with regard to handling writs of execution. I am out of touch with that system. What are they using now to improve that system from the old one of going to the sheriff's office and making manual searches?

Mr. Blomsma: The Polaris solution for writs of execution problems is a little way down the line because it requires us to build up a file of information that we do not currently have. For the last couple of years it has been suggested that there is an interim approach possible, and that is what the law reform commission and your county law association and a couple of

other bodies like that have been looking at. That involves making an execution search today valid for a number of days.

One of the biggest problems, particularly in the land title system, is having to show up on registration day and subsearch executions. If you can be guaranteed that an execution search can get carried out now, which shows that the vendor that you are buying from has no executions against him and that it is good for a certain number of days, that eliminates a lot of your problems at closing time.

The Vice-Chairman: Is this what is in place in the Newmarket office and Toronto land titles office at the moment?

Mr. Blomsma: No. That piece of legislation is being worked on right now, I understand, at the Ministry of the Attorney General. We have in the Toronto land titles office an automated file of writs using the present system.

Items 1 to 3, inclusive, agreed to.

The Vice-Chairman: What about item 4? Were there any questions?

Mr. Mitchell: I think there may be. I am just making an assumption, but I have a feeling there will be a couple of questions. I could be wrong.

The Vice-Chairman: Perhaps we will hold item 4 till the beginning of the next day.

Hon. Mr. Walker: I think the chairman emeritus of this committee was anxious to raise

some questions on the Personal Property Security Act.

The Vice-Chairman: We will stand adjourned until next Wednesday.

Mr. Swart: Before we adjourn, how much time do we have left in the total estimates? I think we are running over and we may have to give some thought of redividing what is left.

The Vice-Chairman: Mr. Swart, there is no question of running over. I think this is a perennial problem we run into on any estimates.

Mr. Swart: I know, but I want to know.

The Vice-Chairman: I think we are about five hours over.

Clerk of the Committee: We have about three hours and 20 minutes remaining, and we are about five and a half hours over.

Mr. Swart: In fact, we have only three hours and 20 minutes remaining for the liquor licence and residential tenancy programs.

The Vice-Chairman: For the rest of the estimates, whatever they may be.

Mr. Swart: I would move that we carry item 4 too.

The Vice-Chairman: I am sorry, we have moved adjournment, so we are not going to deal with item 4 now.

Thank you, gentlemen.

The committee adjourned at 1:04 p.m.

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Ontario, LEGISLATIVE ASSEMBLY

No. J-21

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of Consumer and Commercial Relations



First Session, Thirty-Second Parliament

Wednesday, November 25, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, November 25, 1981

The committee met at 9:35 a.m. in room No. 151.

After other business:

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS (continued)

10:10 a.m.

Mr. Chairman: In order to get the clock running, we shall reconvene the estimates of the Ministry of Consumer and Commercial Relations.

Mr. Swart: How much time do we have left? I believe it is about three hours.

Mr. Chairman: It is three hours and 27 minutes if I am not mistaken.

Clerk of the Committee: We had scheduled one hour for property rights and we have used one hour and 38 minutes. We are four hours and 43 minutes overtime.

Mr. Swart: How much time is left?

Clerk of the Committee: Three hours and 17 minutes.

Mr. Swart: Mr. Chairman, we have two of what I consider to be the most important items of the ministry left and we have just over three hours to do it. Perhaps we can have a consensus, rather than my making a motion, that one hour and a half be taken on liquor licence matters and the remainder of the time, one hour and 45 minutes, be used for the Residential Tenancy Commission?

Mr. Chairman: What about the registrar general, Mr. Swart?

Mr. Swart: I thought we had already spent overtime on that.

Mr. Chairman: We have not started that yet. We are on property rights.

Mr. Swart: I would suggest that we move on to the other two. From the point of view of myself and my party, the other two are significant enough that we need that amount of time on them.

Mr. Mitchell: With respect, I had a couple of questions on the registrar general's program.

Mr. Swart: Could we save three hours for the

two, for the liquor licence and residential tenancy matters?

Mr. Chairman: Under vote 1505, we have item 4, personal property registration under property rights. We have the registrar general under vote 1506, the Liquor Licence Board of Ontario under vote 1507 and the Residential Tenancy Commission under the final vote, 1508. That is four items.

I am at the pleasure of the committee as to how you wish to allocate the remaining three hours and 17 minutes.

Clerk of the Committee: There are about three hours and 15 minutes now.

Mr. Mitchell: Mr. Chairman, as you have pointed out, we have gone overtime in some areas. I know that I have a couple of questions on the registrar general and I am not sure whether there are any questions outstanding on the property rights program, which we have not yet completed. I do not know whether we can affix time.

I recognize the member's concern that he has specific areas to deal with. All I can suggest is that we proceed and try to do so as quickly as we can.

Mr. Swart: Can we go to a vote immediately on property rights and proceed to the registrar general, if there are some questions there, and see how quickly we can get through that? At some point I may intervene very quickly if we get bogged down, because I and my party insist, particularly with residential tenancy, that a substantial amount of time be allotted to that. It is a very important item.

Mr. Williams: That has been the difficulty all the way through, Mr. Swart. All of us have considered that the other items have been important enough to spend time beyond that allocated. Thus we find ourselves in this bind.

Mr. Swart: That we are in a bind is right.

Mr. Williams: We are all guilty of it.

Mr. Swart: I am not laying any blame.

Mr. Williams: We are going to try our best, but I think it is going to be hard.

Hon. Mr. Walker: We need to have another five or 10 hours of estimates.

Mr. Swart: I am sure you will get that through the House leader.

The Acting Chairman (Mr. Mitchell): All right, gentlemen, let us proceed.

On vote 1505, property rights program; item 4, personal property registration:

Mr. Williams: It is a number of years since I was involved in private practice in researching conditional sales contracts at the old county court office for people who were buying motor vehicles or other personal property of a substantial nature. I understand there has been considerable change to get away from that archaic system of having to go in and spend hours leafing through many conditional sales agreement books. What is the current state of the art?

Hon. Mr. Walker: Mr. Tom Rundle, who is the head of the personal property security division of the registration division of the ministry, is here; but yes, it has been dramatically changed since you and I were practising. I have been somewhat overwhelmed to see the difference in it. Today it is centralized and computerized.

What you would do instead of going to the old registry office—they used to have a separate registry office—

Mr. Williams: A county court office.

Hon. Mr. Walker: That is right, behind the registrar. You would have to go in and hunt through I do not know how many books, but several volumes for each one to search out your conditional sale.

Mr. Williams: There was the bill of sale and then conditional sale.

Hon. Mr. Walker: Then there were chattel mortgages and assignable book debts. So you would have to leaf through all these books time and time again and look for the name you were searching for, and if you had the wrong name you were in trouble.

Today, 48 of the land registry offices have computer service. There is an assistant who will dial a number for you and that gets a direct line to Toronto, at no cost to yourself, which is answered here by clerks who have video display units in front of them and who search out the names that you pose.

For a cost of \$2, which I think is too modest and we will have to be taking a look at that, people can secure a main check on a corporation, on an individual or on several individuals.

Mr. Williams: Do you get a printout?

Hon. Mr. Walker: You have to ask for it and then the computer printout is mailed to you within a certain period of time. It is done after hours, is it not?

Mr. Rundle: It is printed overnight.

Hon. Mr. Walker: It is printed overnight and mailed out the next morning. The printout is a computer spread sheet, which is not the easiest thing to understand, but once you have read a few of them you know what to look for and what it is saying. For a cost of \$5—

Mr. Rundle: It is \$2.

Hon. Mr. Walker: It is \$10 for the certificate and \$12 for the—

Mr. Rundle: It is \$2 for a printed response, \$2 for a verbal response and \$10 for a certificate.

Hon. Mr. Walker: I have got my fees mixed up.

Mr. Williams: Would you repeat that? I missed it.

Mr. Rundle: It is \$2 for a verbal response over the telephone, \$2 for an uncertified printed response and \$10 for a certified printed response.

10:20 a.m.

Hon. Mr. Walker: A certified one is certified by a registrar. In effect it says this is officially, as of this time, the degree to which there might be liens or otherwise against them. It is quite a system.

Mr. Williams: If we could backtrack, Mr. Minister, you mentioned the number of land registry offices from which you can conduct this search by telephone. I forget the number you mentioned—48, was it?

Hon. Mr. Walker: Forty-eight.

Mr. Williams: I gather the system is not in all of the registry offices at the moment.

Hon. Mr. Walker: By design. We have to have a person stationed there who is capable of coping with it. It is in 48 of the principal centres across the province. There are lots of counties where there are two registry offices; the satellite registry offices are often very modest operations and would not be expected to have this kind of capacity. Some day we may expand it.

Mr. Williams: It would be the senior of those two offices that would have it, so that each county or region is served. How many of our county registry offices still have the dual registry system?

Mr. Rundle: There are 48 counties and districts in the province and there are 65 offices, so the differential is 17 offices.

Mr. Williams: So a number of them still have the two offices. At the other end of the spectrum, what is the procedure for a person who wants to file a conditional sales contract, a bill of a sale or a chattel mortgage? Has that changed?

Mr. Rundle: It has been changed. Under the new legislation one is allowed to submit it by mail to what we call the central registration branch. Some 60 per cent of registrations come in via the mail.

Another significant change in the procedure is that under the old legislation you had to file a chattel mortgage or conditional sale contract itself. Under the new legislation you merely file a notice, which is called a financing statement.

Mr. Williams: What is the time lag, if any, that exists? At what point is the document deemed to have been registered for lien purposes, if I can use that term, and when does this go on the computer system? What time, if any, is lost between the date of its being stamped as received officially and becoming a formal lien document? Is it put on the computer system the instant it is received?

Mr. Rundle: Registration is effective from the time assigned to it by the registrar or the branch registrar in any of the branch offices. The data is then entered on to the computer file. We start that data entry function by putting them on the computer file from the central registration branch immediately they are registered.

From the outlying branch offices, the technique is to have those documents sent in to us by courier service, so they arrive throughout the balance of the day and some the next morning. For the balance of the day—we work until 10:30 in the evening—we put on file all the registrations that we have received from all the branch offices and from the central registration branch. We arrive at 7:30 in the morning and start data entry immediately on those which come in the morning, to get them on the file by 10 a.m. in the morning ready for inquiry.

Mr. Williams: In practice, then, a person who files a conditional sales contract either by mail or by going into a branch office is not really covered or protected, in so far as being in a lien position goes, until possibly the next morning or the next day when it has been processed through the central office and put on the computer. Is that correct?

Mr. Rundle: There is no time lag as far as the registration is concerned because it takes effect immediately the time is put on it by the registrar.

But there is a time lag from the standpoint of inquiry. You make an inquiry today and the file currency is of yesterday at the close of business.

We never upgrade that currency time. There is always that time lag. When we do the data entry it is not put directly on the inquiry file but on a batch file which is separate and apart. That night we do the update run and add it to the primary file. So we do not literally do data entry on line for inquiry purposes; it is a batch system. Being on line would be a very expensive approach. So we are faced with that time lag.

Mr. Williams: Is there any caveat given to the searcher?

Mr. Rundle: Yes.

Mr. Williams: Is the qualifier that it be valid as of a certain date?

Mr. Rundle: That is step one in the process. It is on our printed responses what the file currency is. When a person places an inquiry, the first thing they are told is what the file currency is. They make an election at that point whether or not to proceed.

Mr. Williams: So they are proceeding at their own risk for that maybe 24-hour gap period?

Mr. Rundle: That is right.

Mr. Williams: I guess there is no practical physical way of closing the gap there unless one actually went into the central office and made a manual search, if that is possible.

Mr. Rundle: At the time we set up the system we had a basic decision to make: whether the person would be able to go to a branch office and effect a registration—walk out of that office and know he has completed his registration and can now advance funds and do whatever he wants—or whether we would treat the branch offices merely as collection points and not register the document until it is actually recorded in the central file.

There are two different philosophies, and you are stuck, one way or the other. A decision was made to provide the facility that you can register in a branch office. The theory was we wanted to technically provide an equal level of service across the province.

Mr. Williams: I suppose if one were involved in a very large transaction—I just cannot illustrate it at the moment but I can visualize perhaps there might be a large number of personal assets involved in it. The transaction, I suppose, could involve the advancing of moneys and wanting to know they were fully protected.

Would the wisest course of action for the party who wanted to be protected by that lien be to file centrally?

Mr. Rundle: The procedure we recommend is that they register first and then order their certificate. Then they have the information in front of them as to the priorities between conflicting interests in the property. If things are in the order in which they expect them to be, either clear or whatever the priorities might be, then they can advance the moneys freely.

Mr. Williams: I see.

Mr. Rundle: They are relying on the information on the certificate and, because it is a certificate, that makes the insurance fund liable.

Mr. Williams: That system has been in place since the Personal Property Security Act was enacted?

Mr. Rundle: That is right.

Mr. Williams: When did we do that?

Mr. Rundle: April 1, 1976.

Mr. Williams: Has it worked smoothly and to your satisfaction? I gather there have been no basic problems that have arisen since its implementation. Or have there been some?

Mr. Rundle: The feedback we are getting is that it is working very well. Other provinces are duplicating the system we have put in place. Both Manitoba and Saskatchewan have virtually duplicated the system.

Mr. Williams: Just two last questions, if I might, Mr. Minister. From the time the new program was implemented in 1976, how long did it take to move into the new system and get it all computerized in the fashion you are describing? Secondly, how significant an increase in the number of registrations has there been on a yearly basis from 1976 until now?

Mr. Rundle: We went through a transition period. The legislation was approved and we received royal assent on June 15, 1967. At that time, the provisions providing for the setting up of the registration system came into force. None of the other sections was proclaimed in force.

The next step we followed was to introduce this concept of a financing statement into the existing legislation for the Bills of Sale and Chattel Mortgages Act, the Conditional Sales Act and the Assignment of Book Debts Act. So under those pieces of legislation you are required to submit not only the document, but the financing statement as well. We also introduced it as a requirement at the time of renewal.

10:30 a.m.

That was introduced about four years prior to proclaiming the Personal Property Security Act in force. It allowed us to build up the complete files and on April 1, 1976, we had a complete file of every registration then extant in the province.

Mr. Williams: I see. All right. Then that facilitated and expedited converting it to the computer?

Mr. Rundle: Yes.

Mr. Williams: Approximately how long did that take?

Mr. Rundle: The transition period, when we were actually going through the gathering of the data, was in excess of four years. During that period we learned a lot. The early registration—

Mr. Williams: Yes. The system came on stream pretty promptly after the act.

Mr. Rundle: It came on without a hitch. It was almost a—

Mr. Williams: Okay. Just that last part of my question. By what significant amount has the volume in registrations increased?

Mr. Rundle: When we proclaimed the act in 1976, the registrations were about 650,000. This year we are projecting 1,080,000.

At that time, the inquiries were totally decentralized and we had no control over the inquiry process. We had no real handle on what the number was, but we postulated there would be one inquiry for every three registrations; the ratio would be one to three. That proved to be correct in the beginning. Over the years however, the mix is changing slightly. It is one inquiry for every two registrations now. So we are getting approximately half a million inquiries a year and one million registrations.

Mr. Williams: If we had not moved at the time we did, it would be just utter chaos at this time.

Mr. Rundle: Yes.

Mr. Williams: It was bad enough then.

Mr. Rundle: Even the manual system could not cope.

Mr. Williams: Thank you very much for bringing me up to date.

The Acting Chairman: Thank you, Mr. Williams. Mr. Treleaven.

Mr. Treleaven: I am sorry. I did not catch your name.

Mr. Rundle: Rundle.

Mr. Treleaven: Mr. Rundle, in this latter question of Mr. Williams, would you admit it is possible to beat the PPSA system with that

12-hour lag? Let us assume it is not a purchase money security interest we are dealing with, where you would want your 10 days.

You say you do your update or whatever, but if you have a closing at 4:30 the following day, you can beat it. Someone could go in and do an instant registration that would not show up until the following day's search. Right?

Mr. Rundle: I believe that is not the case. I believe that if you register, order your certificate subsequently and then you have your certificate determining the order of priorities—

Mr. Treleven: Yes.

Mr. Rundle: —then you can release the funds. I think the priorities are determined by the order of registration and therefore there is no need to be concerned about an up to date subsearch kind of thing, as you have to do at the registry.

Mr. Treleven: Oh. However, you were thinking strictly from the liability of the system.

Mr. Rundle: No. I believe the lender is then free to advance the moneys without concern of the registration being—

Mr. Treleven: Oh. You are saying you are like a purchaser for value without notice. You fall into that category once you have the certificate in your hand.

Mr. Rundle: I am thinking from the standpoint of the lending institution, I am not thinking of it from the standpoint of a purchaser without notice. I agree there is a problem.

Mr. Treleven: There is a lag. If someone was determined to beat the system, he could go out and get a second loan.

Mr. Rundle: Yes.

Mr. Treleven: Fine. Thank you.

Is it impractical—I sort of got that from your answer to Mr. Williams—to try to do away with that lag? Is it impractical to have an instantaneous entry in the registry offices—wherever, Sudbury, Woodstock—go through so it feeds instantly into your computer and the word comes back? Is that right?

Mr. Rundle: The cost associated with doing it would be tremendous and it is also impractical. If you had enough money, theoretically you could do it. But we are not even sure if the theory would work.

The alternative might be, however, to not have registration take effect from the time it is registered in the branch office. You would merely use the branch office as a collection

point and not have it come into effect until it is actually recorded in the computer system. So that would be an alternative.

The Acting Chairman: Supplementary, Mr. Williams.

Mr. Williams: I know this is out of your jurisdiction, but I suppose—just thinking out loud—that time-lag problem exists to some extent even in the real property system in the registration of title documents.

Mr. Rundle: In the real property system they have a fee book in which they make an entry immediately if there is a registration. So you can check the fee book to see if there is anything happening there.

Mr. Treleven: That is right.

Mr. Williams: But the day book used to run hours behind on a busy day as well.

Mr. Rundle: That can be.

Mr. Williams: I guess it is physically impossible to have it instantaneous.

Mr. Elston: The fee book is relatively up to date, as Mr. Rundle says, because they are entering all that material as soon as they get the money in.

Mr. Williams: As quickly as they can.

Mr. Elston: As soon as you give them a cheque they are documenting this.

The Acting Chairman: Continue, Mr. Treleven.

Mr. Treleven: That is the advantage of practising in Goderich and Woodstock and so on, rather than in the confines of Metro Toronto where they are not as speedy with their day book, Mr. Elston.

Mr. Elston: That is part of the problem. They are very good in London and larger centres like that.

Mr. Treleven: Thank you. Is the PPSA on the same computers as the companies branch for company name searches?

Mr. Rundle: No, it is not.

Mr. Treleven: It is not. I guess I was in the chair when we went past companies branch. May I register with the minister my violent objection to the—

Hon. Mr. Walker: We would have to return to that vote.

Mr. Treleven: No. This is sort of a—

The Acting Chairman: It is out of order.

Mr. Treleven: This is a Tory supplementary. How is that?

The Acting Chairman: Please.

Mr. Treleven: Fine. I will discuss the books you get—some system that is different—if you do a PPSA search against a John Smith, you may get a book five inches thick. It will take you days to check off John Smith, even with birth certificates and so on.

Is there not some system to cut down on these wild books you sometimes get under your printouts?

Mr. Rundle: The inquirer has the choice of doing what we call a specific inquiry or a nonspecific. If they do a nonspecific, that is the first given name plus the surname only, you will not be faced with that problem. The alternative is to do the specific inquiry, which includes the date of birth, the first given name, the initial of the second given name and the surname. That will narrow it down.

Mr. Treleven: Yes. What about a corporation that does not have a birth date?

Mr. Rundle: No question the present business debtor algorithm is not working satisfactorily. There is no question. It is not—

Mr. Treleven: So therefore you get your books.

Mr. Rundle: Yes. We are looking at it. We have received information from Saskatchewan as to what they are using and we are having a look at their algorithm as well.

Mr. Treleven: So you are taking steps to—

Mr. Rundle: Yes.

Mr. Treleven: May I suggest you have a requirement on corporations—some requirement like the letters patent—the date of incorporation of the letters of charter or whatever, to cut down on the books? It is a sore point among practitioners.

Supplementary to that my violent objection is to the crazy computer the ministry uses in the companies branch. Before I am ruled out of order—

The Acting Chairman: I was just about to do so.

Hon. Mr. Walker: Order. What is going on here?

The Acting Chairman: I object to the language.

Hon. Mr. Walker: When are you going to chair this committee properly?

The Acting Chairman: Is that the last of your questions, Mr. Treleven?

Mr. Treleven: No, I have one more question. It is certainly a great improvement from the

old system Mr. Williams has referred to. However, with the computer in Toronto and the young ladies on the telephone giving you oral information, the speed the computers have is certainly damaged by the wait required for the telephones out in the branch offices.

Is there any way to upgrade the branches in the same way as you have the central computer?

Mr. Rundle: We are looking at a number of alternatives. We are faced with that problem during very heavy periods. Generally the level of service we provide is satisfactory at present. I would say nine months of the year, we provide satisfactory levels of service.

Hon. Mr. Walker: At the moment it is fair to say it is instant. You can telephone through and you are not going to wait longer than it takes to punch it in.

Mr. Treleven: Oh yes, on this end. But you may wait quite a few minutes to get the telephone and to get the line through.

Hon. Mr. Walker: I mean in these days—right this minute. Back in July we were in trouble. There were a lot of transactions and there were a lot of waits—there were waits to get the line of upwards of 15 minutes or so in some cases. I heard of some exceptions to that.

We are taking some steps to resolve that problem and we may have a solution. Indeed, I am meeting today with people who might ultimately resolve that problem. But that is in the wind. At the moment, because there is not a large usage, we are in pretty fair shape for telephoning in and it takes merely a matter of seconds to get through.

10:40 a.m.

Mr. Treleven: Fine. Thank you, Mr. Minister.

The Acting Chairman: Are there any questions?

Mr. Swart: I want to move a procedural motion if I may. I did not want to interfere with Mr. Treleven because he has been in the chair and has not had an opportunity to express his concerns. But the clock is running. I suspect we have something less than three hours left at the present time and there may be some desire on the part of some to not get into the residential tenancy to any great depth.

The Acting Chairman: Mr. Swart moves that the last hour and a half of the estimates of the Ministry of Consumer and Commercial Relations be reserved for discussion on residential tenancy.

Mr. Williams: Mr. Chairman, I have to take objection to the preamble to the motion as put forward, attributing motives to the members of the committee. It suggested for some reason there may be some members of the committee who are not desirous of dealing with one aspect of our estimates.

That is inappropriate, Mr. Swart. It is unbecoming of you to attribute motives of that nature. I would hope you would withdraw that suggestion, because I do not think there has been any indication of that at all.

Mr. Swart: Let us have the vote on the motion. Proceed.

Mr. Williams: Speaking to the motion, Mr. Chairman, given that Mr. Swart does not want to respond to the concern I have raised, I am wondering whether it is a well-intentioned motion or whether he is trying to lend some criticism.

For the record, because of the innuendo in his preamble to his motion, I simply draw to your attention the great amount of time spent over and above the allotted time on previous items under the estimate schedule. It can be clearly directed and attributable to the members of the opposition who have felt they were not given enough time to discuss certain items of vital importance to them.

The minister, in particular, has bent over backwards in persuading the committee to extend additional time, on more than one occasion, to some of these items—Mr. Bradley in particular. And Mr. Swart, in particular on his urea formaldehyde foam insulation—we gave him an extra half hour there. In each instance, where we have extended the time, it has been at the behest and request of members of the opposition.

Now Mr. Swart suggests some members of the committee would want to talk further than the allotted time on some of these matters just for the purpose of trying to avoid the last item on the estimates—I can only assume that motivation is coming from the opposition ranks, based on the performance in the estimates hearings today.

I am going to oppose that—trying to categorize and time label the remaining items—on the basis of the approach to which Mr. Swart has taken on the introduction of the motion.

Mr. Mitchell: Mr. Chairman, we have been proceeding on the basis of allowing each member the freedom to try and get his questions across. To reiterate what Mr. Williams has said,

that has been more than adequately provided to some of the other speakers. I must say there is a question of concern of mine under registrar general.

It should be pointed out the next two items are really one vote only and I think we should proceed the way we have been on that basis. Because they are one vote only, it will, in all likelihood, move along quickly in any event. But I do not wish to be party to a motion that would limit anyone from asking any questions.

Mr. Swart: Mr. Chairman, I did not want to debate on this at length because it takes from our time. If my comments on motivation offend anyone and prevent them from voting for this, I am willing to withdraw that.

I just simply feel, regardless of who has used up the time—I suggest there have been government members too who have asked questions. We would say the opposition, during the last two or three hours, has been rather quiet. Some of the answers given by the minister have been extensively lengthy. He may have felt he needed to give those.

The fact still remains that residential tenancy is an exceedingly important matter. I think to spend only an hour and a half on that is a real concession. We had considered spending four hours on it. I just want to ensure that it is not shuffled right off the end. We have spent almost an hour and three quarters on this last item. I just want to ensure—

Hon. Mr. Walker: If it is, you cannot blame the Tories because you are the ones who took all the time at the beginning of the estimates on Re-Mor. How long did you go over on them?

Mr. Swart: I am not trying to lay blame on who went over. I am just saying residential tenancy is serious and important enough that we should spend at least an hour and a half on it. I will withdraw any reference to motives if it makes any difference to you, but I think this committee should realize the importance of residential tenancy and that we should spend an hour and a half on it.

Hon. Mr. Walker: Yes, but you only have yourself to blame.

Mr. Swart: I have not got only myself to blame. There are all kinds of—

Mr. Mitchell: Mr. Chairman, I do not believe in trying to say one has monopolized the discussion any more than others. I recognize the concerns Mr. Swart has. We are taking as much time by debating this the way we are. I think we should proceed and try and get through the items.

Mr. Williams: One last observation I would like to make, Mr. Chairman. I am not going to support the motion, but I am as concerned as Mr. Swart about trying to get reasonable time on residential tenancies. I will make every effort certainly to get at least an hour in on that before the time expires, but let us move on.

Mr. Chairman: Do you still have the motion on the floor, Mr. Swart?

Mr. Swart: Yes, simply that one and a half hours be reserved for residential tenancies.

Mr. Chairman: Fine. There being no further discussion, all those in favour of the motion raise their hands please.

Motion negatived.

Mr. Chairman: The motion is defeated five to three. Shall we carry on with the estimates?

Any other comments or observations on item 4 of vote 1505, personal property registration?

Item 4 agreed to.

Vote 1505 agreed to.

On vote 1506, registrar general program; item 1, registrar general:

Mr. Chairman: There is one item only, registrar general. Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, this is an area that concerns me. I think we have read in the paper of people found carrying Canadian identification, possibly birth certificates and so on, who were involved in crimes within the United States and elsewhere. I cannot remember the specific cases, but I know there were some.

I was led to believe there is some consideration being given to improving the birth certificates currently issued. First off, the system is going to be improved and, secondly, the certificate itself is going to improve so it cannot be counterfeited or duplicated.

I would like some response to that, because the individual involved in the Martin Luther King assassination was carrying Canadian identification.

Hon. Mr. Walker: I wonder if Mr. Pike and Mr. Mitchell can come forward. Mr. Pike is the deputy registrar general. We are in the arena of changing the whole thing and perhaps it is a good time to point out our changes.

We are about to change the birth and the marriage certificates to adapt to the new Canadian program, which will be virtually country-wide. I understand most provinces have adopted it by now or will be adopting it. This program involves special birth and marriage certificates

which we think are capable of being used without any prospect of adulteration or counterfeiting.

10:50 a.m.

I have a sample here of the new certificates we will have, which might be useful. I will pass it down. What you are going to find about this, first of all, is that it has the hidden word "Canada" typed all across the back of it.

It is just like a bank note and these things are made by the bank note people. Then it has hidden inside it the name "Canada" in a special feature. Now see if you can see this. Here is how you are going to have to do this. You have to watch this experiment carefully.

If you look at the upper righthand corner where it is solidly blue—or brown in your case, Jim—if you turn it on a slant, when you get to a certain point you will see the name "Canada" surfaces in interwoven letters. Do you see that?

That is part of the process of concealing the words. The Royal Canadian Mounted Police are convinced it is going to make it impossible to counterfeit. This has been developed with the—was it the British American Bank Note company? Are they the ones preparing it?

On top of that, this will be added. There is the blue card. The blue will probably be for marriages and the brown card will probably be used—

Mr. Pike: Blue will be for births.

Hon. Mr. Walker: Blue is for births now. Blue for birth and brown for marriages.

On top of that we add the provincial crest, which will go on the front in a different colour like that. On top of that will go the name "Ontario."

This is a British Columbia sample I am using. On top of it you will see printed "British Columbia" in the upper lefthand corner in that panel; then "certificate of birth" over top of the word "Canada;" and then all of the necessary details down here.

I think we are going to be able to avoid any counterfeiting. Here is an example of what it would finally look like. Going over to this system, which is Canada-wide—it is in at least five provinces now—will not only avoid counterfeiting, which I think is extremely important, but it will save us \$400,000 a year.

So we are moving into a valuable approach. We are computerizing the system and the moment you order a birth certificate—and I know that all of you, if you are members like the rest of us, will make great use of the birth

certificate family over there—you get very fast service. You will be able to get almost instant service. The moment they punch in the buttons, 34 seconds later or whatever it is it spits the certificate out the other end, in an envelope addressed and ready to be stuck in a mailbox. It is that fast.

The search is computerized too. By the middle of next year we will have eliminated the quill pens and we will be into the area of automated search and automatic find.

I am guaranteed that we will have the capacity to delve into the computer ourselves, manually, if we have to. Unlike some other government computers where if there is a breakdown you are stuck until the breakdown is repaired, in this case we would be able to revert to a manual search and find, and you will be able to receive, almost on a few moments' notice, the birth certificate you need, correctly searched.

Mr. Bradley: We have run into that frustration before at various levels of government. Whether it is legitimate or not, it is always a good excuse to say, "The computer is causing us some problems."

Mr. Chairman: What section of government could you possibly be referring to?

Mr. Bradley: There are a few, which I will not specify. But I think it would be valuable for them to have that that backup system.

Next, I would bring to the minister's attention that he should inform the Ontario Minor Hockey Association that we are no longer going to have plastic birth certificates. This year, in our area everyone had to have a plastic birth certificate and there was a great rush for us at that time of the year.

A question coming out of that is how long would it take a person who sends in a written request and a cheque or money order to your ministry to receive a certificate? I think it is now about three to six weeks; three weeks if there are no problems. What length of time could we expect to wait now?

Mr. Pike: A great deal hinges on the mail, but I would think we would have the normal request in the office maybe three working days at the outside.

With reference to the hockey leagues I would like to point out that there are 35 different reasons for requiring certificates. I am affiliated with people on either side of me who are involved with minor hockey. It is quite true that they need certificates. I have had children at my

door in hockey uniforms and with their skates on, waiting for their father to take them to a playoff game.

The fact remains, when they sign up to play hockey they are told that a birth certificate is required. Most of these cases that arrive at my door—I take them home so I can deliver some of them—is simply because the parent has neglected to do what he was told in the first place.

Mr. Bradley: There is no question about that. The reason I made the remark is that they used to accept both paper and plastic. Now, after all these years, they have decided they will accept only plastic birth certificates. If it was because they felt they could not be forged or changed, perhaps there is some validity, but the ministry has overcome that problem with this system. So I said that more in jest than anything else.

Hon. Mr. Walker: We may have a solution to that too. At least some, if not all, of the birth certificates will be contained in a little plastic envelope and presumably that will meet the requirements. It would be loose inside the envelope, but at least it would protect it from a hockey player's wear and tear. He might stick it in his pocket and have it in a little less than perfect shape by the time he got home from a game.

This little plastic pouch costs us about a quarter and in the light of some of the comments you made the other day we are looking to adding it as part of the parcel which would be mailed out to a person.

If we were to laminate this, which is the case now with the birth certificates, that would foul up this identification process. If you put the plastic sheet over it, the hidden words cannot be seen; the three-dimensional aspect, or the thickness of the plastic, subverts the attempt at counterfeiting. We feel that having it loose, so it can be extracted from the envelope, is probably the best answer.

Most people would put it in a plastic pocket in their wallets, so we made sure it is the right size for that. That is a simple thing, but it would be pretty awful if we had produced one that would not fit.

11 a.m.

Mr. Williams: I am sorry I missed one of the tamper-proof features you described, Mr. Minister. I caught the part about "Canada" at the top as a hidden name. Was the additional feature to do with the embossing of the certificate, or was there something else?

I am sorry, I was talking with Mr. Blair for a moment and missed what you were saying.

Mr. Pike: Any attempt to alter that certificate would deface the certificate in a way which could not be repaired. Also, the planchet on the back and the name "Canada" in the code makes it quite impossible to duplicate. This certificate was recommended by the RCMP and agreed upon at the council of vital statistics for all the provinces as the most logical certificate, not only from the sense of security but from the standpoint of automation.

Mr. Williams: As for embossing the certificate, the information is fed off the computer, is that correct?

Mr. Pike: That is the intent.

Mr. Williams: If there had been a typographical error made on a certificate that was being done manually, would the certificate be destroyed?

Mr. Pike: Every certificate has to be accounted for and there is no possibility of alteration. If we do something wrong, the certificate is kaput.

Mr. Williams: They are all numbered?

Mr. Pike: Yes, for audit purposes. Each certificate is audited like a mile of highway.

Hon. Mr. Walker: You may have a computer problem. It may come back and say you have not been born, or something like that. However, we are counting on having no computer difficulties.

Mr. Williams: My other question refers to the fee structure—

Mr. Chairman: Mr. Williams, I think I am going to rule you out of order. We are still on Mr. Mitchell's original question. Everyone seems to have forgotten, including myself.

Mr. Williams: I am sorry.

Mr. Mitchell: I think the samples that were put out answer the possibility of forgery.

Do you respond to phone call requests, or does the \$5, or whatever it is, have to be in your hands? Secondly, how much checking is done? Do you just take the facts you have been presented with as to birth date, name and so on, or is there a file search to make sure the person requesting the birth certificate is not asking for one in the name of someone who is deceased?

I understand that has been a problem in the past, that some people managed to get Canadian papers by using the identity of someone who was deceased. What sort of checking is done before you issue the birth certificate?

Mr. Pike: The system of vital statistics throughout Canada and the United States is that anyone who procures a birth certificate must provide

sufficient identification information for the record. They must provide the name, the date, the place of birth and both parents' names.

Under the system—and we issue nearly 500,000 certificates a year—if you write in and give us this information, we have no way of knowing whether you are who you say you are. You have given us an address and the certificate is mailed to you.

It is the same if you come in to the counter. If I walked in right now, I would give the information as to my name, the date and place and the names of both parents. We do not ask if a person can identify himself because only 10 per cent of the people who apply for certificates apply at the counter. You take it at face value. If it comes in the mail you have a document, signed by someone, saying they want this.

Probably one of the most precarious of operations would be one involving the members themselves, because they have constituents phone them and say, "Would you get me a birth certificate?" They do not necessarily know the constituent, although we think they do.

Mr. Mitchell: I was never asked personally, but if I did know the person I—

Mr. Pike: We get applications on behalf of constituents where this or that person needs a certificate in a hurry. They get the information over the phone and then they collect the money from the person. I think the thing to remember is that a birth certificate is not a means of identification. It was never intended as a means of identification.

Mr. Mitchell: But the Customs at the border, with all respect, want to see it.

Mr. Pike: They want to see your birth certificate and something else to prove that you—

Mr. Mitchell: And a driver's licence, as well, is in my opinion no real means of identification.

Mr. Pike: I have had a phone call from the RCMP, four days after we issued a certificate, to say that someone was picked up at Prescott with an Ontario birth certificate, an Ontario driver's licence and a social security card, all belonging to someone else. If they want to beat the system by getting someone else's documents, or by forging them, they can do it.

Mr. Mitchell: What you are telling me is that there is really no cross-check made. You register deaths?

Mr. Pike: Births, deaths and marriages.

Mr. Mitchell: So if someone writes in and says, "I am so-and-so and I would like to replace my birth certificate," you accept the information they provide to you. You do not do a quick runthrough on deaths to ascertain whether that person is using the name of someone who is deceased.

Mr. Pike: There is no such a thing as a quick runthrough.

Mr. Mitchell: I realize that. I apologize for using that term.

Mr. Pike: If it were a woman, for argument's sake, and it could be, she would die under her married name but she would be applying for her birth certificate under her maiden name. So for 50 per cent of the population we would not know where to look in the first place. Only a male would die with the name he was born with.

Mr. Mitchell: Even so, that is an added form of protection. I come back to the question, is it a matter of course that you would check with a death or marriage certificate?

Mr. Pike: No.

Mr. Mitchell: Canada has been much ridiculed in the press over the past number of years for making it so easy to get papers of identification. I think in some cases passports have been taken out in the name of someone who was deceased. It strikes me, the way the world is going today and the things that are happening, we should be doing our utmost to ensure that the person who gets that certificate is the person the applicant claims to be.

Even to make such a check would not be proof against misrepresentation, but surely there should be some way of checking on John Smith, who is asking for a birth certificate because he lost his and claims to be the son of John Smith and Pocahontas. I am assuming you are on computer.

Mr. Pike: We are not on computer yet, we are in the process.

Mr. Mitchell: Let us come to that point, then. When you are on computer, do you not think it would be an easy thing to have in your software program the ability to call up an automatic search of birth and marriage records to compare it to the information in the request you have received?

Mr. Pike: It is not feasible. It is not done in any of the 50 states or any of the 10 provinces for the simple reason that it would take a computer about as large as the one that Government Services has. When we get our computerized

system we will have the most modern computerized vital statistics system in North America. To do what you are suggesting, to have an unlimited index for every event that has occurred, would cost an astronomical amount.

Mr. Mitchell: Do not get me wrong. I am not trying to criticize the work the registrar general's office does. I am concerned about the type of things that have happened. No system is perfect; one recognizes that.

Mr. Pike: We have had two cases since 1946 and we issue, at the present time, 500,000 certificates a year. It gets into the realm of fraud.

Mr. Mitchell: Undoubtedly. It is just that I take it personally when the newspapers write, "Canada is the easiest place in the world to get papers." It is a personal point of view. What I am looking for is some way to ensure that the person applying is the rightful person.

11:10 a.m.

Mr. Pike: I am trying to think of a reply to your question. It must be remembered that if someone applied for a certificate for someone born in Ontario but who was dead, they would not necessarily have died in Ontario.

Mr. Mitchell: You raise the point that we would have to have a Canada-wide system.

I realize there are problems and that I am digressing. I will pass on the next question.

Mr. Williams: I have just two or three quick questions, Mr. Chairman. Just as a matter of interest, who is putting in the system for you?

Mr. Pike: Mr. Werner Nuss, an official in charge of computerization in our ministry, is in charge of it. Several of the staff are permanent employees and some are hired consultants.

Mr. Williams: I am sorry, I meant which system you are putting in. What type of computer system is it?

Mr. Pike: The whole project was done in two phases. The computer is really a terminal linked up with Government Services. When the mainframe comes on stream some time in the latter part of April we will also be contracting with Government Services' major computer.

Mr. Williams: What effect will this have, if any, on the cost factor in putting this program in place? I guess the initial setup is at some cost, but will it reduce the personnel costs in any way?

Mr. Pike: At the present time and for the last 20 years our personnel total is about 172 people. It is contemplated that when the program is in,

through attrition and transfers over the period of the next couple of years we will reduce our staff by approximately between 40 and 50 people.

The savings will be substantial. I estimate that within four years, five at the outside, the entire cost of the program will be paid for. Then the savings will be continuous from that point on.

Mr. Williams: You will recover your costs within five years?

Mr. Pike: Yes.

Mr. Williams: Is there going to be any adjustment in fees for obtaining these additional certificates? What is the present rate?

Mr. Pike: The present rate is \$5. Unless it is imposed, as such things are, we are not contemplating any increase in fees based on what the program will cost. However, if circumstances are such that all other government fees are raised, I have no doubt that we will be told to raise one fee or the other.

Mr. Williams: We enacted amendments to our Change of Name Act to permit women to retain their maiden name; I think a number of variations were introduced in that legislation. In practice, what impact has that had on your system? Have there been many applications of that nature?

Mr. Pike: Yes. At the present time our legislation does not cover all situations. The procedure is simply to advise someone to contact a solicitor. There is no one who is actually administering the Change of Name Act. You have to get a lawyer and he will get a court order from a judge. A copy of the order will come to us and we will make the amendment.

In the prairie provinces the Change of Name Act is administered by the vital statistics office or division and the fees are nominal. A change of name would most definitely cost under \$50 under that system.

We feel it would be revenue producing for us and also it would be a great deal simpler. We do not discuss fees with solicitors but I believe that changing one's name can run anywhere from \$400 to \$600 in lawyers' fees at the present time. We feel that simple cases of changing a given name or a surname could be administered within our office and be handled very quickly. Contentious cases, however, should be handled by a solicitor.

Mr. Williams: Under your present record system are you able to identify the number of applications you have been getting requesting name changes based on the amendments we

made to our legislation to permit a person to use two names in the case of married women, their maiden name and their married name?

Mr. Pike: I do not have that at my fingertips. That is under the Vital Statistics Act. The numbers are not great. Since the amendment allowing them to use a hyphenated surname with either name first, the numbers are not large; they are no problem. But that is not what we call a change of name.

Mr. Williams: I guess it was really the latter I was addressing. I was just wondering how significant the volume has been since the implementation of the legislation.

Mr. Pike: It is not significant. It is a bit of a problem to implement because you get people with double hyphenated names, but it is really no major problem.

Mr. Williams: The last question is, how long a name can you take on the system?

Mr. Pike: As long as the name itself. It has to be there.

Mr. Williams: There are some systems in place where it will only take so many letters.

Hon. Mr. Walker: This types right over the other side and on the back.

Mr. Pike: We had one where we had to run across the full certificate in double space. The name covered the full certificate on each side, but we got it in.

Mr. Williams: It can actually print on the back, or are you joshing me?

Mr. Pike: No. But we can get it in.

Mr. Chairman: May I ask a brief question? It used to be that when solicitors wrote to the registrar general for marriage certificates they were asked what was the purpose of the request. Do you still do that?

Mr. Pike: A solicitor, just because he says he is a solicitor, cannot automatically obtain a copy of a marriage certificate. If he is acting against the party, he is not entitled to it.

Mr. Chairman: So you still do a certain amount of policing?

Mr. Pike: Most certainly.

Mr. Chairman: You mentioned that when you are given a name, birth date, place of birth and parents' names, you can sort it out. But very often people request birth certificates and, for one reason or another, do not have all those facts available. They might have only the sketchiest information about the place of birth and the time. Sometimes, for estate purposes,

that has to be traced. Will the new computer be able to dig that out with fewer facts than are generally required?

Mr. Pike: No, but it will be able to dig it out with the same number of facts we use to do that now. It starts with an index search. The index is alphabetized something like a telephone directory for the whole province. If we cannot find it under the year suggested, say 1900, we look under 1901, 1902, 1899. You automatically get a five-year search for your money right off the bat. We will reverse the given names and make every effort to find it. We do not give up on the first effort.

Mr. Chairman: Is that going to be computerized, or do you have to go back to manual when you doing that kind of search?

Mr. Pike: The index is going to be computerized to go back for a certain time. We have a submission in now to get the rest of it computerized. The problem is filling up the bank that you can draw from. When the system is finished, we will have automation for about 70 per cent of the certificates issued, which includes the bulk of those where there is urgency.

Item 1 agreed to.

Vote 1506 agreed to.

Mr. Chairman: Thank you very much, Mr. Deputy.

Hon. Mr. Walker: We did not use the full hour for that.

On vote 1507, liquor licence program; item 1, Liquor Licence Board of Ontario:

Mr. Chairman: Mr. Blair, I might note, is a good old Oxford county boy coming here—

Hon. Mr. Walker: No, a former resident of Oxford county. Do not refer to his age.

Mr. Chairman: We are all old boys from Oxford county. Mr. Blair's father was a deputy registrar at the Oxford county registry office for many years. That makes him an Oxford county old boy.

11:20 a.m.

Hon. Mr. Walker: We are being joined by Mr. Willis Blair, who is the chairman of the Liquor Licence Board of Ontario, appointed about April 1, and Mr. Paul Boukouris, who is the director of administration.

Mr. Swart: I shall try to be fairly brief in my questions, so that we reserve some time for residential tenancy.

My first question is to the minister and relates to the issue of special occasion permits to high

school student groups. I have had more complaints from parents than from any other area concerning liquor licensing because of these special occasion permits.

When they are issued to groups which may not be directly associated with the high school, such as sororities, they involve other groups which are indirectly associated with them, and as a result there are parties where a majority of those present are under age. Ex-students of the school sponsor these and they are apparently very difficult to police. On occasion the police have been overwhelmed with complaints from the parents.

Granted that there are difficulties generally with these licences, is any attempt made to ensure that the members of the group which is applying for the licence are all 19 years of age or older? Or if the application is made, is it automatically granted?

Hon. Mr. Walker: Are you referring to student groups?

Mr. Swart: Yes, I am referring to high school student groups. The licence may not be taken out in the name of the school group itself but in the name of others associated with it, in effect a bit of a subterfuge to get the permit. I have been inundated with complaints from parents after some high school student parties.

Hon. Mr. Walker: Who has taken it out?

Mr. Swart: They have been taken out in the name of an organization which may call itself a sorority. On one occasion it was a group of former students of a high school who formed a group and obtained a licence, but many of those present were students of the school at that time.

I called the liquor licence board about this and they explained all of the enforcement difficulties. But it seems to me the requirements should be toughened, if it is at all possible.

I guess I want to know the policy of the liquor licence board regarding applications for these special occasion permits.

Mr. Mitchell: Supplementary to what Mr. Swart is asking, I presume that, implicit in his question, is the matter of a follow-up inspection during the function to ensure that the licence is posted as it is supposed to be and to verify the ages of the participants.

Mr. Swart: There are two problems. One is the policing of it, as you have stated, Mr. Mitchell. The other is the issuance of a licence where the group knows that about 80 or 90 per cent of those present will be under age.

Hon. Mr. Walker: Maybe Mr. Blair can tackle this one.

Mr. Blair: First of all, the facility for which the special occasion permit is issued has to be checked out. The bulk of them have their special occasions on file with the board now. If it is a new group, it is checked out to see who they are and for what purpose they want the special occasion permit.

You can appreciate, Mr. Swart, what a large number of permits are issued—and I am not using this as an excuse—145,000 to 150,000 a year. All of those are issued by applying to the local liquor store. I think there are 147 stores in Ontario that have the responsibility to issue.

A lot of organizations are seeking a permit for the first time and it may be a one-shot deal. They are not fully conversant with the rules and regulations—by that they do invite problems. We have had problems just these last few weeks with hockey clubs having a big bash in the first part of September to raise money for the year. It has caused no end of problems.

When they apply they are told who can be served alcoholic beverages, but by the very nature of things, sometimes things get out of hand. If we get a complaint about it—incidentally, it is customary for a first-time organization to be checked out. The police receive notice of the special occasion permit and either they are inspected or the police could be tipped off to pay a call. Most of those which apply are bona fide organizations with a good track record.

Mr. Swart: I know that. I am only talking at this time about this one group in particular; the sororities which are associated with high schools. I have had two principals contact me over this, because of their real concern.

The officials of the liquor licence board tell me they have no authority to refuse such a licence, even though there may be evidence the great majority of those who are going to be at this function will be under the age of 19; they have no authority to refuse them.

Again, my question probably is to the minister. Is this now an area that should be looked at, so if there is reason to believe the great majority of those at this function are going to be under age, perhaps the licence should not be given; to look at some new regulation? That is the point I am raising.

Hon. Mr. Walker: I do not know if we need new regulations, but just as a matter of practice I would say if we find out this is happening, that is the end of that operation. Let us know who you are talking about and, zap, they are done with.

Mr. Swart: I talked to the Liquor Licence Control Board about this when I got these complaints.

Mr. Mitchell: I would say though, Mr. Swart, your question concerns the fact the licence was issued. It is difficult to be following after the fact. Is that not true?

Mr. Swart: Yes, once the licence is issued. If they know they have a pretty sound reason to believe a great majority of participants are going to be under age and they just do not have the time or the follow-up is just not done, with all of the restraint program—and this goes on—and the great majority of those drinking are under age.

Hon. Mr. Walker: You will not find any difficulty with our restraint program there.

Mr. Swart: The police claimed they just do not have enough police officers—

Hon. Mr. Walker: The Welland or the Niagara police might have their difficulties with their budget, although I gather that restraint is not as apparent there as it might be in other fields. But you tell us where things are.

Mr. Swart: I will. I shall turn in the names of the principals to Mr. Blair, because he can talk directly to them. I do not want to state them here, for obvious reasons, but I shall turn in the names. It is not just taking place in the schools in Welland; this is a very common practice across the province.

Hon. Mr. Walker: This question does not have anything to do with the location of the event?

Mr. Swart: No, it does not. It is held in a hotel or hall or something. Most of them are held in halls. It seems to me—and I just want to conclude—perhaps the regulations should state that if there is reason to believe a great majority of those attending the function will be under age, the licence should be withheld. They tell me now this cannot be done.

11:30 a.m.

It does not matter if they find out 90 per cent of them are going to be under age. If an application is made by a group formed for the specific purpose by 10 former students, even though the party is being held for graduates of the school or for any other group in the school, they cannot refuse the licence.

Mr. Williams: Mr. Chairman, surely there are very legitimate occasions where numerically you may find the number of people in attendance, the majority of them, are under age.

I can think of situations like, for example, a hockey banquet held for an organization where all the parents and children come out and they get a special occasion permit for that function. The children might outnumber the adults two to one, yet it is a very legitimate, responsible function. It is conducted in good taste and they may serve wine at the meal or something like that.

Mr. Swart: That is not usually any problem.

Mr. Williams: But you are saying no parents are involved. If you are going on the numbers game only, of more underage than overage people, there are lots of situations where that could apply. Just to categorically say in that situation they should close down—

Mr. Swart: The principal of the school tells me if it was really held by the sorority itself, the school could then police it themselves to some extent.

Mr. Blair: What you are really suggesting, Mr. Swart, is the applicant for the special occasion permit is applying under false rules. That is a problem we have; there is no doubt about it.

Mr. Swart: It may be. From talking to the liquor licence board though, they said they could not refuse the permit under the circumstances.

Mr. Blair: We refuse many applications—and, of course, someone will come breezing in at the last minute and want a special favour sometimes.

Mr. Swart: It seems to me there may be some new regulations that need to be enacted so there can be more control.

Hon. Mr. Walker: What new regulation would you propose? What kind of regulation can you come up with that stops that?

Mr. Swart: I am just saying perhaps a permit should be refused if the great majority of those in attendance are under age and the parents are not attending. There should be the power to refuse it.

Hon. Mr. Walker: It probably is refused in a case like that. We do not need new regulations to tell us what we are doing now, all we need is effective policing. We cannot suggest to you every single situation is caught, but I will tell you we catch an awful lot.

Mr. Swart: But Mr. Mitchell has said once a licence is issued, from there on it becomes exceedingly difficult. There are two areas. One is where you have control—the issuing of the licence—and the other is in the policing of it after it is issued.

Hon. Mr. Walker: Well, the inspectors know of all of the SOPs, where and when, and they make a practice—indeed, our inspectors often spend little time working during the day because they are working at night, from 7 p.m. on to 1 a.m.

Mr. Swart: Maybe they need new inspectors in the area. Maybe the political appointments are not working.

Hon. Mr. Walker: I do not think you should criticize your inspector. I do not think any of them can take a second seat to any kind of inspection force we have in the province. They are a very good force.

Mr. Bradley: Political affiliation has nothing to do with them getting the job?

Hon. Mr. Walker: I cannot deny the odd one might be Conservative. I suppose we have taken Liberal and NDP as well.

Mr. Bradley: You always have to put the token one in so you cannot say they are all Tories. We know they are backing Tories—

Hon. Mr. Walker: From talking to some of them I would not be a bit surprised if they are the majority.

Mr. Mitchell: One has to recognize the human frailties. In defence of the inspectors, Mr. Swart, I have seen, from activities in which I have been involved, that you may not even know the inspector is there. He will come through and you may not even know he is there. The only way you might know he is there is if the permit is not properly posted, then he will identify himself and ask where your licence is.

I must tell you I have had the opposite where I felt the inspector was being completely unfair because of the things he was asking for. But according to the letter of the regulation, he was correct. I think it may be the numbers you are perhaps talking about. Sometimes, with the number of functions going on, the inspectors allocated for a specific area may not be sufficient.

Mr. Swart: In any event I will turn the names over to Mr. Blair and he can pursue this matter and find out if the statements are correct. When he finds out the real concern that exists in this area he can perhaps, either enforce regulations in that area more strictly or perhaps consider new regulations which the minister or the liquor licence board could enact.

Mr. Williams: A couple of supplementaries there if I might Mr. Chairman, to either you, Mr. Minister, or Mr. Blair. Reference was made to

the inspectors. How many do we have now? What is the staff strength as far as inspectors? And secondly, do we have any female inspectors at this point?

Mr. Blair: First of all, as you know, a big transfer to the fire marshal's office took place on November 9. We are left with 51.

Hon. Mr. Walker: He is being very humble about this but he should tell you the success story. If he will not, I will.

Mr. Blair: Maybe the minister should do that. You are all aware, from what you have heard up here and seen in the press, that the fire marshal's office is assuming greater responsibilities for the fire safety function and is taking away the responsibility from the liquor licence board inspectors. It resulted in a transfer of 70 personnel. There were actually 67 plus three vacancies transferred to the fire marshal's office and that took place two weeks ago.

It posed quite a problem. There were two different bargaining units involved there and the business of people who had been with us a long time severing their connection with us and moving over. It was not an easy thing, but the people who worked on it including my colleague, Mr. Boukouris, Gary Coe, our personnel director, and the union—everyone did what I think was a really good job.

We tried to get the people to move on a voluntary basis and we almost got enough. Then we used gentle persuasion and then maybe persuasion, I do not know. Anyway, there were very few who were unhappy. Some wanted to go, because of the method of selection to the districts, minimizing the expense and the trauma of packing up and moving, and there were some who wanted to stay with us. Anyway, it has worked out reasonably well. So we have 51 left.

Mr. Williams: What was the total number that went?

Mr. Blair: There were 61 from the inspection staff, three vacancies—

Hon. Mr. Walker: What are you doing? Your figures are not computing.

Mr. Blair: Three vacancies and six others from our staff; two licence officers went, the manager of SOPs, three from the licensing department, one from the special occasion permit section and two who are actually from the licensing department but from the plans examination branch. One or two of those have gone to Kenora and North Bay.

Now you asked a question, Mr. Williams, regarding the number of women inspectors. We

have two; one is an inspector and one is an investigator. We used to have four but two have gone to the fire marshal's office.

11:40 a.m.

Mr. Williams: I see. Are there any plans afoot to increase the number of women inspectors or is it just an ongoing part of the process?

Mr. Blair: Anyone can apply. At the moment we have no vacancies. When we do, the job will be posted and advertised and if women apply they will be considered. You might be interested to know, Mr. Williams, that we have five licence officers and they are all women.

Mr. Williams: Had many, or any, applied to be inspectors up until recent years?

Mr. Blair: These I alluded to were on strength when I arrived. I really do not know how long they have been there. One investigator had been on staff in another capacity.

Mr. Boukouris: We have had one on staff for five or six years and one for a year and a half.

Mr. Williams: I presume the conditions of employment are such that there is no reason to prohibit a woman from qualifying to assume the position as much as a man?

Mr. Blair: No, nothing. I was surprised there were two women investigators because it is a thankless job. They do the monitoring and they are going in troubled areas. They have done an exceptionally good job. Their reports are quite the masterpieces.

Mr. Williams: Just another supplementary, Mr. Blair, on the special occasion permits. I just caught your last observation in responding to Mr. Swart. It is my understanding the number of SOPs issued over the past year is approaching 109,000. You said in your comment you also turned down many applications for special permits. What is the ratio there, and what are most of the circumstances under which you do reject such an application?

Mr. Blair: A lot of them are applied for as a fund-raising measure. I think we have a sort of rough rule that we only allow one a year. If it is an ongoing thing, we just say no. There are groups who seem to be trouble prone and we have to cut them off.

Mr. Williams: So it is more a question of frequency of applications for the permit; if you see a group coming in on more than one or two occasions.

Mr. Blair: We get people and organizations who apply for the minimum permit and do not always insert numbers that reasonably corre-

spond with the amount of alcoholic spirits they have indicated. They say they are giving it away, but we find out later they have been charging for it. As I mentioned earlier, we are having trouble with hockey clubs at the moment.

Mr. Williams: You said you turned down a great number. I was just wondering if you have any percentage figure.

Mr. Blair: No, I do not. You can rest assured that for the number we issue, there would be a considerable number turned down.

Mr. Williams: I see.

Mr. Swart: I have another question I would like to ask. Very quickly—I believe you have announced certain new hours with regard to licensed establishments. Is that right?

Hon. Mr. Walker: No, it is probably best to say I have floated a trial balloon on the question of hours. I was making some reference that—with the advent of staggered hours where we are trying to encourage meals sooner than 12 noon to avoid rush hours—perhaps we have some responsibility as a ministry to give some thought to rolling back the moment of opening from 12 o'clock noon to maybe something sooner; like 11:45, 11:30, 11:15 or 11 o'clock.

Mr. Blair and I have been talking at some considerable length on this question and debating it internally for a number of days. I would be interested in some of your views on that question. I tend to think it flows naturally that we would roll back the hours. We have tended to use 12 noon as the yard-arm and we have not diverged from that time for many years, although at one time I think it was possible to consume earlier in the day.

We have a philosophy in the government that the best way to consume alcohol is as a complement to food as opposed to the watering-hole concept; something that goes a little more hand in hand with food. I think you have seen licensed establishments proliferate where food service has been generated. That being the case, I think it is probably consistent for us to give some thought to rolling the times back from noon to—let us say 11 o'clock—just for convenience at the moment. I would be interested to know whether that meets with your views.

I would further be interested in your observations on what we should do at one o'clock, because we are continually receiving petitions from the industry who would like it to be extended beyond one o'clock. It is a little different; you are not always eating at 1 a.m. but you are eating at 12 noon.

Mr. Swart: I would express the view that with regard to the noon hour there is some merit in moving it ahead to 11:30 or 11:15 or even 11 o'clock, because I think it must be the intent now to provide for alcoholic beverages while people are having lunch. If someone is having an earlier lunch I think it is reasonable the hour should be set to provide for them.

In my area, the Niagara Peninsula, we have a real problem about the one o'clock closing time which you do not have in a place like Toronto, because we are close to the border. When they go out of there at one o'clock they then drive across the border to drinking establishments which stay open longer. That provides a real hazard with regard to driving. Therefore, our area has some reservations. I realize the difficulty, once again, of making a different policy for different areas. In my riding I think it would be preferable, on all counts, to have the drinking establishments open until two.

Having said that, if it was not the case of being beside the border, I would stick with the one o'clock closing.

Mr. Philip: There is the OHIP cost, too. People go over to Detroit to drink, they get injured and then they come back to our hospitals in Windsor. It is a tremendous cost to the taxpayers of Ontario.

Hon. Mr. Walker: Does that mean you would say one o'clock should be extended every single day, or should it be extended simply on the weekends?

Mr. Swart: I would think on the weekends only. That is the time when there is a great deal of drinking.

Hon. Mr. Walker: There is an argument, certainly for that.

Mr. Mitchell: I will be really brief. The minister has mentioned staggered hours or flexible hours; whatever the case may happen to be. It was just with regard to the comments Mr. Swart was making.

I think Ottawa is an example where, as a large federal area with a great number of federal employees, all the ministries or departments are on flexible or staggered hours. What happens is these people go to the restaurants prior to the 12 o'clock period for their lunch. But because they want to have a drink with their meal, they sit down and have a coffee until they can order; they do not want to eat without a drink.

Because they are steady customers, a lot of the restaurants try to go along with that, but if you go to a downtown Ottawa restaurant at 12

o'clock on the button, in some cases you find lineups out into the street. You might have to walk for a half an hour to find a place where you can get in and get a seat. It does create its problems.

11:50 a.m.

We have adjusted our work force into this because of transportation and a variety of other reasons, and I quite frankly think we have to look at moving the hour ahead to 11 o'clock.

Mr. Swart raised the point of Niagara being across the border from Detroit and so on. We have a similar problem in the Ottawa area because of the dividing line of the Ottawa River and the hours and so on one can operate on the Quebec side.

I think there is some merit in examining the night-time extension as well. I am not necessarily committed to supporting it one way or the other. I do think, however, the noon hour one is the important one to be considered. I personally would like to see legislation very quickly on it.

Hon. Mr. Walker: The industry tells me one of the benefits of rolling back earlier than 12 noon is they can get in two meals over lunch hour.

Mr. Mitchell: That is right.

Hon. Mr. Walker: It would be a boon from their point of view, instead of having that rush and lineup at 12 and because people do not eat much beyond 1:30. By having the earlier opening, they can get two feedings in because people generally take maybe 45 minutes or 55 minutes to consume a meal; so you can go from 11:30 to 12:15 and then a second sitting from 12:15 or 12:30 to 1:15 or 1:30. So there are some attractions to it.

You probably have a greater problem in Ottawa because Hull stays open until three o'clock whereas a drink in—Jim, what is the time down in your area? Isn't it two?

Mr. Bradley: They have licences that stay well beyond that. There are staggered licences in New York state. I have known people to be in certain establishments in Buffalo, for instance, until four o'clock in the morning and alcohol still being served. Most of the establishments would finish serving alcohol at 2 a.m. But with certain licences they have for specific times, some of them stay open all hours.

Hon. Mr. Walker: We have that anomaly to try and straighten out.

It might be a bit easier to slip over to Hull because with the configuration of Ottawa, you often do not know you have left Ontario. You

probably think you are just crossing a creek and you are over there. Whereas going over to the States, to Detroit or Niagara Falls or wherever, you have to go through the whole process and you know you have entered the United States. It is not quite the same process, but it is an interesting problem.

Another thing where we have difficulty down in the Niagara region is this happy hour stuff pumped up in Buffalo and in Niagara Falls. The happy hour is playing havoc, of course, over here.

We have always felt alcohol is not the kind of thing you want to use as what you would call a loss leader or an advertising gimmick. Alcohol is meant to be a convenience to people who are consuming food. We think they go relatively well hand in hand; it is better for a person to be drinking and eating than to be simply drinking at a watering hole.

So with this happy hour stuff going on, with advertisements in the Niagara Falls newspapers, we are getting into all kinds of interesting problems over in the Ontario cities. I do not know how we are going to resolve that happy hour thing.

Mr. Williams: A further supplementary, if I might, with regard to extended hours: Mr. Swart categorizes the inconsistent hours between the two different jurisdictions as a problem. Whether it is Quebec and Ontario or the United States and Ontario, I do not see it as a problem necessarily, Mr. Minister.

Simply because some other jurisdiction has longer hours I do not think in itself is justification to extend the hours beyond one o'clock. If people want to go on drinking into the wee hours of the morning in parts of the province where they are not immediately adjacent to a jurisdiction which has extended hours, they can go home, or elsewhere, and continue drinking as long as they want to. I do not suggest that it is creating problem in the social behaviour of people simply because other jurisdictions have extended hours. It may be that it is more desirable to stay with the one o'clock closing.

However, we have another situation and Mr. Blair may be able to comment on it. Some of us on occasion have been in Europe, where the drinking hours seem to be totally unlimited. Some of us have observed that they serve drinks in restaurants at breakfast hours. At some functions one attends, it is commonplace for alcohol to be served with the morning coffee, which is carrying it to the point where alcohol is available in commercial establishments virtually 24 hours a day, seven days a week.

The Europeans seem to adjust to that; I do not know whether it has created a social problem there or not. Mr. Blair, in your short term in office, have you had an opportunity to investigate that situation? How would you relate it to Ontario?

Mr. Blair: I suppose the first encounter I had with the hours that are practised in Europe was when we were asked to extend the hours in establishments in Ottawa to accommodate the delegates, their support staff and the news media, who attended the economic summit conference in July. There was no request—and I was glad of that—for hours earlier than 12 noon, which I had anticipated.

However, when I saw the copy of the letter from the planning and organizing committee that was setting up this conference, that was not what they wanted. Later hours was what they had in mind. They wanted closing time to be 3 a.m. and seven hotels were granted permission. The conference took place in Montebello and it was felt there was a need for extended hours to allow for the time it took for them to get back to Ottawa, where they were housed. I guess some of the establishments profited by it and that for others it did not make any difference at all.

We get requests from time to time to adjust the hours to accommodate an international situation. There is accommodation in the regulations for that on a special occasion permit.

Mr. Williams: I guess the two most recent ones I can think of was the time of the Republican convention in Detroit and the international ploughing match in Barrie. They were really special occasion situations, were they not?

Mr. Blair: In Windsor during the Republican convention I understand there was an across-the-board relaxation of the hours. But the information I have is that it did not produce too much business. I think some of them were sorry that they had asked for it.

The ploughing match was a different situation. It had to be dealt with by regulation amendment because it was in a dry area.

Mr. Williams: Yes, that is correct. But the European situation is again markedly different from the one that Mr. Swart was referring to where there is just a variance of one hour or so. I do not know whether that is something we would want to encourage, simply based on the hours of the adjoining jurisdiction.

Mr. Blair: If you extend it because you feel good about the organization or you think there

is a special case that can be made for it, the minute you open the door there are an awful lot of organizations that tell us they have an international flavour and want the same thing. But it has not been a problem to date. It is easy to say no to most of these people.

12 noon

Mr. Elston: I want to go back to the information you gave us about the transfer of individuals out of your ministry. When we were dealing with the Fire Marshals Act, there was a great deal of hope on the part of the Solicitor General that there would also be an allocation of funds. How much was transferred?

Mr. Blair: Nothing has been transferred yet. The amounts you see here are on the basis that the staff to be transferred will remain with us for the balance of the year.

Mr. Elston: So there will be an internal shift from your ministry over to the fire marshal?

Mr. Blair: That is right.

Mr. Elston: What is that going to do for your recruiting of inspectors?

Mr. Blair: We are going to try. With the reduced work load there may be less frequent visits to the licensed establishments. We are going to try to operate at the moment with the 51 we have. Actually we are carrying two or three who are near retirement, rather than moving them. We are trying to work it out.

There will be a problem in northern Ontario where distance is involved. I understand the most distant call that one of the inspectors will have to make working out of Thunder Bay is 450 miles. You can see that place will not be bothered too much. On the other hand, if a new application comes in from that area, and we normally expedite applications by visits from the inspector, it could mean a delay or more use of the telephone and mails than has been the case up to now.

Mr. Elston: In your inspection process, do you still do the theatres?

Mr. Blair: No, not for the fire safety functions. The fire marshal is going to do that.

Mr. Elston: But for the theatres that you still go into, have you implemented any new regulations, or additional training of your inspectors?

Mr. Blair: Not recently.

Mr. Elston: So you are standing by with what you have.

I noticed you mentioned hockey clubs with regard to the issue raised by Mr. Swart about getting these licences for fund raising. I know

from experience that it is easier to get what is called a social licence and to hold a social function for a group than it is to get a fund-raising licence.

The difference sometimes seems to be more one of terminology than the method used. I was associated with a hockey club fund-raising activity and it required their coming up with a minimum of 50 members. There were also a great number of regulations with which they had to comply. This is almost impossible in a small area. But you can apply for a social licence without those requirements.

I wonder if you would comment on that type of situation.

Mr. Blair: Your comments are correct, Mr. Elston. We are hopeful that instead of individual hockey clubs applying for a special occasion permit, the league will do it so it will be under league auspices. We have had real problems lately in the Ottawa area.

Mr. Elston: They are bad people down there.

Mr. Blair: There was a combination of circumstances. They got a rock band to provide so-called music—you can tell my age when I use that term—and it posed no end of problems. We had a case yesterday and the decision of the board—I was sitting on it—was no more special occasion permits to this particular hockey club.

The chairman of the board of the arena was there and he was upset because we sent a proposal to them that we would deny any further special occasion permits. Of course, they can challenge that and agree to come to a hearing, which they did yesterday, and we aired the whole business. In that instance the man who was the head of the organization was considerably less than honest with us and I made no bones about it. That was the second one.

You cannot lump them all together. There are usually some circumstances that are slightly different. We have to keep in mind that it is a community effort and we certainly want to foster community spirit and goodwill if we can. But there is a limit to what we can do.

Mr. Elston: I was thinking of our area where a league may cover a territory of over 70 miles. It is very difficult to get a league sponsorship and an organization really must arrange one on its own.

Mr. Blair: If their track record is good we do not mind co-operating and issuing a special occasion permit. But we are going to draw the line with regard to certain rock bands because

that is just an invitation to the younger crowd to booze it up—drugs, marijuana and the whole bit. If the minors themselves are not served by those at the bar, their friends get the drinks for them. No matter how many security folks are on hand—and at Ottawa Valley they were having offduty OPP officers—they still can't cope with it.

Mr. Elston: What about the difference between the fund-raising permit and the social permit?

Mr. Blair: There is a big grey area there.

Mr. Elston: Is there a name for the two designations?

Mr. Blair: We have a rough rule of thumb that we allow one fund-raising event during the year, but we know that some of these social events are also another way of doing it. If they operate the function properly, do not get involved in serving minors and otherwise carry out a respectable operation, we are willing to go along with that.

Mr. Philip: Would it be you or another part of the ministry that supervises legalized gambling at these special events at which liquor is served? I am thinking of those where they show films of races and allow \$2 bets on them.

There is a company in Oshawa that now has these cassettes or films. I have attended a couple of them and found them quite entertaining. Indeed, in our church this Friday, Mr. Minister, you would be more than welcome to come and see the experiment in operation. I will even buy you a beverage then and—

Hon. Mr. Walker: You are having horse racing and liquor consumption in a church?

Mr. Philip: In our church.

Hon. Mr. Walker: What church is this?

Mr. Philip: St. Andrew's Roman Catholic Church in Rexdale. You are more than welcome to come and see the experiment.

Hon. Mr. Walker: Does the bishop know this?

Mr. Philip: I am sure the bishop understands that wholesome people like us enjoy a good time. I have known the bishop for many years—longer, I am sure, than you have known him—since my old days in Montreal when I was a student of his; one of his better students, I might add. But I am sure that he would enjoy—

Hon. Mr. Walker: I wonder if we could have equal time for the bishop?

Mr. Philip: My question has not been answered.

Frank Drea was telling us this was a new thing that he was observing very closely to make sure everything was on the up and up. This is the

second night of it at our church in my riding and I would like an update of Mr. Drea's—I will not call it paranoia, but are Mr. Drea's anxieties being alleviated? Is this now a legitimate kind of operation? No doubt the Etobicoke NDP association would like to do it.

Hon. Mr. Walker: It would be illegal to have those kinds of fund raisings. I think Mr. Drea's answer sounds just perfect. It is something we will continue to monitor very closely.

Mr. Swart: You did not know about that before, did you?

Hon. Mr. Walker: I do not know if I would put it that way, Mr. Swart.

Mr. Swart: I know you would not.

Mr. Elston: I think I will close there. Thank you, Mr. Chairman.

Mr. Bradley: Some of the issues I was going to raise have already been addressed, but I have some others. The survey you took with government funds, we now have a copy of it and I am very pleased about that. I pay a tribute to Pat Reid for his work in—

Hon. Mr. Walker: Do not pay a tribute to him. We are the ones who gave it to you.

Mr. Bradley: —bringing to the attention of the people of Ontario the injustice of carrying out these kinds of surveys and your ministry keeping them to itself, presumably not even sharing them with the members of your own caucus. We, as individual back-bench members of the House, appreciate having this information.

12:10 p.m.

Looking at some of the policy you have come forward with in liquor legislation, I can see where you got it. You read the information found in the polls and then followed that fairly closely. That, I suppose, is one way of governing and it certainly does take into account the feelings of people.

One of the problems several members have talked about is the problem of underage drinking. I look at the figures that say 56 per cent of the people still feel the drinking age should be higher. Whether that would ever solve the problem is another matter.

Hon. Mr. Walker: Maybe some people want it raised to 45.

Mr. Bradley: I remember in Alabama, they wanted to raise it to 53; it was attached as a rider to a bill that the drinking age become 53. It did not pass. You know how they have those bizarre riders in their bills.

I guess easy access is one of the problems. I know you have come up with a program whereby you have your—I call them the LLBO cards—I guess they are—

Hon. Mr. Walker: Who cards.

Mr. Bradley: That is a good name for them.

Hon. Mr. Walker: The age of majority cards.

Mr. Bradley: Am I correct in assuming they are also permitted to take three other forms of identification if the person goes in and looks as if he or she might be about 19; the restaurant or bar can accept something other than the age of majority card?

Mr. Blair: I do not think it is necessarily three. They are supposed to bring three supporting documents when they apply for their so-called who card or age of majority card. But when you go into an establishment and vouch for your age without having something with your picture on, you may need some supporting evidence. It is the photo on that card that is the big factor there. People who do not have our card come in from other jurisdictions and that poses a problem in some areas.

Mr. Bradley: I agree with it when you are strict in your enforcement, particularly as it relates to those bars or drinking establishments consistently violating the rules by serving underage people. No doubt, there are such establishments in Ontario, notorious for serving underage drinkers.

What are you doing to those people? How long are you closing them down? What kind of penalties are you imposing on those people these days?

Mr. Blair: Usually we wait until they have been in court and a conviction has been registered, not just a charge laid. If it is a first offence—and obviously if it is a fairly new licensee and they are not fully cognizant of the importance of enforcing the rules—we may give them a rap over the knuckles and let them go. Sometimes it is only one minor, but if it is a group of minors, they are obviously indifferent to the whole business. We might suspend them for a week or whatever.

You see, we send out proposals to suspend in the light of their violated rules. We may suggest we are going to suspend them for 14 days and maybe end up doing it for seven or not at all. We cannot suspend them for more than the proposal indicated we were going to do. In other instances, we will send out a proposal to revoke their licence.

Mr. Bradley: In some cases, where they are consistently serving underage drinkers, it is probably justified.

Mr. Blair: Yes.

Mr. Bradley: As I perceive it—and I could be wrong—that is one of the problems, serving in regular establishments. But the real underage drinking consists of those who are able to obtain alcohol and drink it somewhere other than a licensed establishment. I do not know how you ever overcome it. We now have stricter rules. One might think, much as I hate ever advocating this government do any advertising because it is not always informational—

Hon. Mr. Walker: Just a minute. I would like you to repeat that.

Mr. Bradley: Your advertising is not always informational; it is promotional of your party many times. But that is a partisan gibe. I think you recognize it as that.

A number of people in this province are not aware of the penalty, which I think is a strict penalty and a good penalty, for obtaining liquor for minors. I think the penalty is pretty strong right now. This Legislature enacted certain penalties which were more stringent. I think a lot of people are still purchasing liquor for minors and not knowing what the consequences are when they do so.

Mr. Blair: I do not think I have heard of too many being charged for supplying liquor to minors.

Mr. Bradley: I realize catching them is a problem, but I still see a number—I have never seen as many young people walking down the street with a case of beer as I have in the last four or five years. They are walking boldly down the street with a case of beer slung over their shoulders and I know they are not 19 years old.

Mr. Williams: How do you know that? It is just that you are getting older and they are looking younger.

Mr. Bradley: No, I know who some of these people are. I perceive this as being a real problem and they are getting younger and younger. When I started teaching elementary school there was very little drinking involved among kids of that age. Nowadays, I talked with my former colleagues and they say there is a real problem. I realize it is a social problem too.

Mr. Blair: What are your former colleagues doing in school when the students have been out at noon and come back a little the worse for wear?

Mr. Bradley: I think if they cause problems in the classrooms they probably bring them to the attention of the authorities. One of the problems I think you are pointing at is that no one wants to blow the whistle.

Mr. Blair: You are exactly right.

Mr. Bradley: No one wants to be the policeman. Everyone wants to say it is awful, but who else is going to do something about it if they do not want to blow the whistle?

I recognize that and I think the secondary education review project report made mention of that sort of problem within particular secondary schools. People just did not want to enforce it because they did not feel it was their business. I think you make a valid point there.

I am just wondering what your view is, as head of the LLBO, on enforcement; of any future initiatives we might take to reduce the amount of underage drinking, which I recognize is a social problem.

Mr. Blair: I think the rules are there in place. It is just a matter of enforcement, as you say, in the schools. I have a daughter who is a secondary school teacher in Mississauga. The students in that particular school are not all angels but one teacher cannot do too much unless the principal or vice-principal will support them and discipline the people.

Of course, they run the risk of incurring the wrath of the parents in the type of situation we get into in this day and age. We run pretty hard on those who have been serving minors, but of course, they have to be caught and convicted. Sometimes it is just the underage person who is charged and has to be dealt with in court. In other cases it is the establishment, but not always the establishment. Sometimes there are mitigating circumstances that make it a little difficult to press the charge as it pertains to the establishment.

It is a problem and it is one we deal with every day we have hearings—every day. I think the rules are there. It is just a matter of enforcement. They are subject to a \$500 fine for serving a minor. One cannot take many of those.

Mr. Bradley: I know the penalties are there, but I still see it happening.

Mr. Williams: I have a supplementary, Mr. Chairman. I was not going to bring up this point although it is very important in my riding, but seeing as you have touched on it, this matter of the close proximity of licensed facilities to schools is a real concern.

We have had specific examples of that in my

area. You refer to students coming back to school after lunch and there is clear evidence they are in less than a sober state. There are a couple of schools up in the northern part of my riding where there has been quite an incidence of this in the past.

It has been very difficult to regulate and control it simply because there is a licensed restaurant in the proximity, within a stone's throw of two of the largest schools in the North York system. I know through your good offices, and your predecessor's, a similar situation was developing in the south end of my riding where there was a request for the licensing of a very reputable and long-established restaurant.

12:20 p.m.

We very much appreciate the careful attention your board gave to that application. They are a well-respected business organization in the community but their difficulty was they were located, again, within a stone's throw of not two, but three, schools—one of them was a primary school so I guess that really would not matter very much—but there were two others directly involved in this in the social sense.

The city of North York enacted a bylaw setting a practice that they would not allow or would not want licensed premises within a given distance of educational institutions. I thought it was a progressive move because of the experience we have been having in North York. I guess this fell four-square within that policy. Whether it was on that basis alone or whether representations were made by the local officials as well as—

Mr. Blair: If it is obvious the community is opposed to it, that weighs heavily with the board. I do not think only distances themselves can be considered. You have to look at the whole thing.

Mr. Williams: Certainly just those two specific instances of situations in my riding clearly demonstrate the concerns you are legitimately raising, Mr. Bradley.

What I think really impressed the people in the community was your predecessor himself—and I think you have done this on occasion in your short term—actually went out on site visits to these locations to see them. They could not believe the chairman of the board himself would take the time to really visit the location, feeling from this they could get a much better appreciation and understanding of the situation.

Mr. Blair: The present chairman does his grocery shopping within a stone's throw of it.

Mr. Williams: That is right, there is a personal vested interest in there as well. Certainly it is a very important concern and one that is not easily remedied. But, as you mentioned, I think it does require some initiatives by the educators who find they are unfortunately embroiled in the situation.

I think North York's approach to it was perhaps a good one and will be of some assistance to your board in trying to contain this type of situation.

Mr. Blair: Of course, there is a letter from the member for Oriole on file there that will weigh heavily, I am sure.

Mr. Williams: I hope it was of some value in pointing out the social problem in the area.

Mr. Bradley: Are you going to sell beer and wine in the grocery stores? I remember the last minister, Mr. Drea, said they were giving consideration to these two matters. Since you are new in this position, I wondered if you were moving in that direction.

Mr. Blair: That is the LCBO's jurisdiction, not ours.

Mr. Bradley: I will ask that—

Hon. Mr. Walker: That is a crown corporation. That matter does not come before us for a vote. We are besieged, probably on a monthly basis, by people petitioning for at least wine in the grocery stores. I have to tell you we have a lot of difficulty defining grocery stores. What is a grocery store?

When we tell some of the independent grocery stores—where most of the petitioning comes from—that a chain store, an A and P or Dominion store, is capable of being considered a grocery store, they get apoplectic at the thought.

When we talk to them in terms of a Mac's Milk store or a Becker's store being considered in that category, because that is the way it is in Quebec, that causes a lot of excitement amongst others. When we talk to the chain stores about relegating it only to the independent stores, we hear from the unions of Dominion Stores or A and P who are most upset about the imbalance that would occur if that were to develop.

It has its problems. At the moment all I can say is there now seems to be a fairly efficient way of dispensing alcohol through the liquor stores we have and in some cases the joint stores that we have up north.

Beer, of course, is dispensed through the Brewers' Retail operation and that is considered to be one of the most efficient in the world for

distribution. Beer prices in Ontario are, at almost all times, lower than they are in any other province in Canada. There are occasions when it slips out a little, but it is still is very efficient, very effective and very cheap by comparison to any other province in Canada. That in spite of the fact we have a little extra tax in some cases. So there are some pretty cheap prices.

Questions have always come up in defining wine. Are we are talking about Ontario wine, Canadian wine or all wine? It presents some difficulties. Then, of course, there is the other question, the loss of money to the Treasury, that has to be taken into account.

At the moment, it is fair to say we have a lot of money that comes in to the Treasury through the liquor operation. If it were to be provided in retail stores, such as grocery stores, there are some considerations there. You have to pay a wholesaler some amount of money to distribute the wine and then you have to pay the retailer something to distribute the wine; and all of that, presumably, comes out of the benefits that come to the Treasury.

I know in Quebec it reduced the Treasury take by something estimated to be between \$50 million and \$150 million. We cannot determine the specific amount because they are just not talking, but there was a substantial loss. Impulse buying was lost. People would go into a grocery store and buy their wine and the sales of wine went up, of course—or at least in the grocery stores there was a substantial increase in the sales, but in the liquor stores they did not sell the companion bottle of vodka or scotch that might normally be expected.

So there is a certain question as to how it affected the figures and that is causing no end of concern in Quebec. I think they are concerned whether or not to stay in it. I am sure they will—once into it they will likely stay there—but it has cost them substantially.

Mr. Bradley: It sounds like the answer is no to that one.

Hon. Mr. Walker: There are just a lot of questions being raised and I can see a lot of benefit on both sides.

Mr. Bradley: Like beer in the ball park; there are drawbacks.

Hon. Mr. Walker: Yes. That is right. There are a lot of drawbacks to it. When you tend to have both sides weighted, it is sometimes very difficult to arrive at a conclusion to forge ahead on.

Now are you saying we should have beer in the ball park?

Mr. Bradley: I am asking you if you are contemplating having beer in the ball park; particularly, let us say, light beer as opposed—even if you serve it as some American parks do—

Mr. Philip: Are you for it or against it?

Mr. Bradley: —they have light beer that they serve at a ball park and they serve it in cartons.

Hon. Mr. Walker: Mr. Philip wants to know whether you are for or against the sale of it.

Mr. Bradley: I, personally, am in favour of serving light beer in paper cups at the ball park, because I think you will have fewer problems with the consumption of alcoholic beverages. I realize you have to be specific and I know what your problem is about not wanting to make it all over Ontario and so on. I recognize it takes fairly specific legislation to handle this, or a local option or something of that nature.

I am looking at it from the view of people saying there are problems with the consumption of alcoholic beverages. There are far more problems with people bringing bottles into a stadium than there is in drinking light beer at a ball park.

Mr. Philip: Are you suggesting that a paper cup from a light beer with which you are hit on the head is any less dangerous than one from regular beer?

Mr. Bradley: It is certainly lighter, and it would help fitness in Ontario if we did not allow the heavier beer in our ball parks. You might think of that too.

Hon. Mr. Walker: Do you mean they more frequently have to climb the stairs during the course of the game?

Mr. Bradley: That is one consideration; and second, I am told there are fewer calories in light beer.

Mr. Philip: I have heard of the Liberals taking both sides, but light beer versus heavy beer, that has to be the cream.

Hon. Mr. Walker: It is fair to announce, right at this minute, that we are going to have a five-month experiment immediately on whether or not beer would go over in the ball park. We will try it out.

Mr. Andrewes: Between now and next April?

Hon. Mr. Walker: Yes.

Mr. Swart: That sounds like a Conservative proposal.

12:30 p.m.

Mr. Elston: I think we can find volunteers to get into the experiment if that is a problem, if you need some.

Mr. Mitchell: With respect, on Mr. Bradley's comments, Mr. Chairman: I have not attended any games in the Forum in Montreal, but I have in Washington and elsewhere in the United States where it is available and served. In all honesty, I must say I have not seen the problems—any problems, really. However, at football games in Ontario and elsewhere, where they are sitting in the end zones where there are just bleacher seats and they are open, I have seen the bottles coming out of the pockets and so on, and being dropped through.

My position may be somewhat contrary to a lot of opinion, but I think a trial would be a good thing. Putting all jokes aside, I am sure the ministry is looking at the matter very seriously. I have not seen the problems in areas where I have been, with the paper cups and so on, but certainly at the football games it is there; you can even go to high school games and it is there. I would rather make sure that you do away with the bottle and you do not force people to smuggle it in.

Mr. Bradley: That is the reality, isn't it?

Hon. Mr. Walker: I must clarify the record and make sure there is nothing untoward there. We are not planning an immediate five-month experiment on consumption in the ball parks.

Mr. Philip: Would you consider a plebiscite in Metro Toronto on the issue; at the next municipal election?

Hon. Mr. Walker: It is rather interesting, but we—

Mr. Philip: I normally do not like plebiscites, I think you should take responsibility for your actions.

Hon. Mr. Walker: We generally do not—

Mr. Philip: However, you seem to be afraid of what the people in Gravenhurst might say about Torontonians drinking beer in the ball park. Would you at least let the people in Toronto have some—

Hon. Mr. Walker: That is rather interesting. I suppose I get most of my letters of complaint about it from all over Ontario and a number from the St. Catharines area. People are concerned. It is surprising how it has a somewhat

broader than just Highway 427 range, indeed it is fair to say that people who go to the ball games come from—

Mr. Williams: I hear they are having beer in St. Catharines.

Hon. Mr. Walker: Yes. They come from all over—beyond Highway 427.

Interjections.

Mr. Philip: It would be interesting to take either a survey or a poll of the people who are attending games at the ball park as to what they want.

Hon. Mr. Walker: Yes. Did they not do that—

Mr. Bradley: Yes, they did.

Hon. Mr. Walker: I think they got the results but did not tell anyone.

Mr. Philip: That is the government—

Mr. Swart: The government, yes.

Hon. Mr. Walker: That must be the Blue Jays holding on to the results. It makes me wonder what the answer was.

Mr. Andrewes: Was it a government survey?

Mr. Bradley: We had that at one time.

Hon. Mr. Walker: I thought they sat on that.

Mr. Philip: It depends on whether they take it on warm day or a cold day.

Hon. Mr. Walker: Yes; not much sale of beer on April 17 when they opened.

Mr. Bradley: The majority said yes, I know that—people who go to the ball park actually said yes. I personally do not feel the need to have beer at a ball park when I am there. But here it is: in April 1981 a survey by the Toronto Blue Jays found that 87 per cent of its fans attending games were in favour of the sale of beer. It does not say whether it was light beer or beer with a higher alcoholic content. That is a survey and some information I was able to get.

Mr. Mitchell: But you are worried about the people's fitness.

Mr. Bradley: I was very concerned about their fitness.

I would like to go on with several other issues—I know Mr. Williams is next on the list—but I am not going to, I am going to forgo it because we have rent review to go yet and I think we have only about an hour left in estimates. So I am going to forgo any questions. I will write to the minister, couching my words carefully when I write to him so they cannot be used back against me.

Hon. Mr. Walker: Be blunt.

Mr. Bradley: I will do that and ask him what he is going to do in certain areas so I can send out copies to people who ask me questions about things like that.

Mr. Chairman: Thank you, Mr. Bradley. Mr. Williams.

Mr. Williams: Mr. Chairman, I am anxious too to get on to rent review, so I will just limit the questions I have to two, not having had an opportunity to ask any questions to date on this vote.

Mr. Elston: I beg your pardon? You have had so many supplementaries, John, that it is a—

Mr. Williams: Supplementaries, yes, but I have not had an opportunity to ask a question of my own—

Interjections.

Mr. Williams: I would like, first and foremost, Mr. Chairman, to compliment Mr. Blair on his recent appointment as the chairman. I have had nothing but good vibrations about his performance to date and I think he deserves a public accolade for his good effort.

Mr. Blair: Thank you for talking to the right people.

Mr. Williams: Provided you give me the right answers to these questions. The two questions that concern me are both about issues that were contentious, but they may have been cured by time.

At the last estimates there was some concern expressed about the question of the alcoholic beverage advertising and the lifestyle type of advertising, as it is called. That was very much an issue a year ago.

There was a lot of concern about whether it was socially desirable to have this type of advertising. There were indications that new, tougher directives or guidelines were being established to minimize or contain that type of advertising and would get the message across without creating a heavy drinking society. Could you comment on that?

Mr. Blair: Mr. Williams, that is one of the toughest things we have to deal with.

Mr. Williams: I am sure it is.

Mr. Blair: I suppose if there is one subject that takes up more of the letters which come in to the board, sometimes via the minister, it is lifestyle advertising. There is obviously a campaign among certain church groups in one segment of the province, and it is in the Lindsay and Peterborough area this year. The people who

are complaining about it have not realized that there is a new minister in the portfolio, so all the letters were addressed to Mr. Drea.

The directives we operate by in Ontario now are as fair as any and are being emulated by the other jurisdictions. There was quite an exchange of documents on the matter of advertising at the last meeting of the Canadian Association of Provincial Liquor Commissions, which was held in June and, incidentally, was my first such convention. Most of the jurisdictions are following the Ontario practice.

Mr. Conroy is our manager of advertising on special projects. We get together about three times a week to deal with new gimmicks and new items that the high-powered advertising agencies are coming up with, especially now that the wineries are giving the breweries and the distilleries a fair run for their money. We are trying to wrestle with this and do it in a fashion that will be the least offensive possible to the general population.

We certainly frown on ads that indicate something of a dangerous situation on water. That seems to be the thing these days—boats, waterskiing and so on. They always tie that in with liquor. We have to turn down any ads that seem to involve danger, or involve professionals in a given sport.

Mr. Williams: What about those sky divers?

Mr. Blair: That is right. There are other things that are offensive on strictly moral or religious grounds. The Blue Nun people are trying to get something on that, as far as I am concerned, is offensive.

Hon. Mr. Walker: What is that?

Mr. Blair: The promoters of the Blue Nun wines were working the figure of the Blue Nun in a variety of other things. I thought it was in very poor taste and we canned it.

Mr. Philip: They probably said it was nun of your business.

Mr. Blair: I must remember that the next time they come in.

There are those in our society who are convinced that the more advertising that is done, the more drinking will be done. And there is another segment of the population who say that the advertising that is done, provided it is reasonable and acceptable to people, is really the advertising of one particular distillery, winery, or brewery, to indicate a brand choice rather than be instrumental in contributing to greater consumption.

12:40 p.m.

There have been some jurisdictions in Canada—I think it was in the Maritimes—where no advertising was permitted for a while and the consumption of alcohol went way up.

Mr. Williams: Where was that, as a matter of interest?

Mr. Blair: It was either in Nova Scotia or New Brunswick.

Mr. Williams: Only in the maritime provinces?

Mr. Blair: Yes. So what we are doing is just trying to keep a lid on the type of advertising that is reasonable and morally acceptable. Of course, you can appreciate the proximity to the United States border for Ontario people means there is all kinds of advertising from the American happy hour.

Reference was made a few minutes ago to the happy hour. This week an employee of the Brockville paper, the Reporter and Times, received a letter from the local member there. He has been in touch with me lately regarding the advertising of the happy hour or two-for-one deal across the border—

Mr. Bradley: In Alexandria Bay, New York.

Mr. Blair: —but they are advertising in the Brockville paper, you see, and the local licensees in Brockville took exception to that and wanted to know what we were going to do about it.

Of course that is not our business. But you heard the answer the minister gave; that is just a side thing. The problem we have doing what we think is acceptable within Ontario is that we have these outside forces always pushing in.

That may be the long answer and maybe not the one you wanted, but I think it is an indication of the problems we have.

Mr. Williams: It is not a black and white situation, I appreciate that.

Like Mr. Bradley, I have a host of other questions to ask, but I want to get on to rent review so I shall limit myself to one further question.

Mr. Swart: There are only 50 minutes left now.

Mr. Williams: We have time next day. How much time do we have?

Mr. Chairman: We have approximately 45 to 50 minutes.

Mr. Williams: One quick question then. I thought we had a good hour to go.

Mr. Chairman: No. This is a good point to bring this up. Under standing order 48(b) the

chairman does have the capacity to apportion time. So I think at this point I shall limit you to five minutes, Mr. Williams—

Mr. Williams: I shall just take a minute for my question.

Mr. Chairman: —then Mr. Andrewes until 12:55 p.m., if I may, so we can carry this today. Then for the apportionment, have the remainder of the estimates on rent review.

Mr. Swart: Only 35 minutes on rent review?

Mr. Chairman: Mr. Swart, is that not better than letting it go on and on with no limit?

Mr. Swart: Yes.

Mr. Williams: I shall just take one minute, Mr. Chairman.

Mr. Swart: That is the worst second best we can have.

Hon. Mr. Walker: You should have remembered that, Mel, when you were eating into it with urea formaldehyde foam insulation and all those other very important issues.

Mr. Williams: To you, Mr. Minister, about the Ontario photo cards. We talked about those briefly earlier. Again, there was a lot of criticism at the beginning that they were too easy to get and that the person applying for them was really not the person alleged to be the one on the card and so forth. Has that problem ironed itself out? Is that now under control?

Mr. Blair: From time to time, we know people come in with money or stolen identification. I had a case I had to deal with myself back in the summer. My people were alerted that certain documents in the hands of one young lady had been stolen by someone else. Sure enough, on Monday morning that person came barging in but within 10 minutes she was in the police department offices. I do not think it is a major problem.

One area where we have a bit of a backlog—I suppose it is because of certain constraints—is in the issuing of these cards. They have to send them in to Toronto, but we have gone out on special projects to universities. For instance, in September, we had a number of people visiting western Ontario and Thunder Bay, Sault Ste. Marie and other places too, to help facilitate the issuing of these cards.

Mr. Williams: I gather that form is being taken more and more—going to sites on an ongoing basis?

Mr. Blair: Yes.

Mr. Andrewes: Mr. Chairman, I have some

questions with respect to the 50-50 ratio that I can address to the minister and the chairman in writing. In the light of the concern with respect to the time remaining, I shall forgo my time. Thank you very much.

Mr. Chairman: We still have 15 more minutes.

Mr. Andrewes: Fine.

Mr. Blair: I have one observation, just as a general comment. I have been on the job for seven months or so now and it was new to me. I did not apply for the job. I told the other committee I was ready to do it. But I have heard from perhaps 30 or 35 members of the Legislature concerning certain problems in their constituencies and maybe elsewhere.

I might say I welcome those, because sometimes we have to operate on maybe rather scanty information and if any of the members know of a case that perhaps is borderline and they want to give our people the benefit of their knowledge, I must say we welcome it.

I have also extended an invitation on various occasions to especially the newer members elected last March for the first time, that if they wished to come down to our place of business, we could show them around and demonstrate what the various departments are like, what they do and maybe give an idea of the volume of work there is.

So if anyone wants to come down on that basis, either individually or in groups, I must say they will get a real welcome.

Mr. Chairman: Thank you, Mr. Blair.

There being no further comments or questions, shall vote 1507, item 1, carry?

Item 1 agreed to.

Vote 1507 agreed to.

On vote 1508, residential tenancy program; item one, Residential Tenancy Commission:

Mr. Bradley: As all members of the committee are aware, the entire rent review program in the province is a matter of great controversy. Many people are afraid the provincial government is going to abandon its present six per cent ceiling on increases.

It seems to me both of the opposition parties have expressed opposition to that and wish to hold the government to its promise made during the election campaign to maintain that six per cent ceiling. We have drawn conclusions from what the minister has hinted that he is contemplating an increase from six per cent to something else. I am saying the Residential Tenancy

Commission at present permits those landlords who wish to seek increases higher than six per cent to do so through a process available to them. It is incorrect when they say they are automatically limited to six per cent. There are some who wish to give the impression that is all they are able to obtain.

The minister has pointed out in his report released this week that the increases actually given have been somewhere around 11.6 per cent. I think what was actually asked was a little over 15 per cent.

In a few minutes I shall ask the minister to comment on whether he intends to introduce legislation next year. He has said he does not intend to introduce it this fall.

Hon. Mr. Walker: No, I did not say that.

Mr. Bradley: You are going to allow a rent increase this fall?

Hon. Mr. Walker: I did not say I would and I did not say I would not, just so my options are fully open.

I think there was a newspaper report, though, to that effect. But the newspaper person was asking me about the Landlord and Tenant Act and they could not understand the difference between the two. It was a rewrite editor or something and I said no, I had no changes in mind for the Landlord and Tenant Act this fall—none that had been discussed. Anyway, that came within the scope of the Attorney General, not mine.

They got all fussed up on the thing. It was a Globe and Mail reporter and they did not understand.

Mr. Bradley: What I shall do, Mr. Chairman, is to address a number of issues, if I may, quite briefly, and then get the minister to comment all at once on these. Some of them he can just jot down. I am sure the minister is familiar with these things so he does not have to have any notes I could hand him. I am sure he is very familiar with them.

The other problem I would like to address is we feel there is reason to believe a rent registry might be something useful to have.

Hon. Mr. Walker: What is your first question?

Mr. Bradley: The first one is the six per cent ceiling and what you are going to do with that.

The second one is: we feel the act should permit the establishment of a central registry which would contain rents charged on all rental units subject to the act. Tenants would have publicized access to the registry in order to be

able to to determine the rent of the previous tenant and whether the six per cent guideline has been adhered to.

The problem has been, as the minister is aware, that they were unable to obtain any previous rent information.

12:50 p.m.

A third matter which the minister addressed in his opening remarks was the matter of paying six per cent on the deposit. We feel the act should make reference to a regulation which would, on an annual basis, adjust beyond the current six per cent the interest rate returned to the tenant on the deposit of the last month's rent. The adjustment should be annual, done by regulation determined by average annual returns on short-term bank deposits. The minister has indicated movement in that direction in his opening remarks.

Another problem we see arising is the Residential Tenancy Commission, at a time when we are seeing—

Mr. Philip: These guys voted against that in 1977.

Mr. Bradley: Just hold on. I am the Consumer and Commercial Relations critic; I know you want to get your partisan shots in Ed, but let us just wait.

Mr. Philip: I was trying to get you to be consistent. In 1977 you voted against it and now you are telling the minister to do it.

Hon. Mr. Walker: Listen here, Ed, we are the—

Mr. Bradley: It takes a long time to recognize that in this province, Mr. Minister.

Another concern we have is the Residential Tenancy Commission itself, in terms of the number of people available and the accessibility. I understand there is a kind of centralizing program going on; you can correct me if I am wrong. There may be elimination of some offices and consolidation of other offices which, in our view, makes it more difficult in terms of access for tenants.

We are also concerned about the number of review officers. We feel there should be more in view of the volume that has existed. It is my understanding some of the people who were eliminated are not to be replaced, so we have a lesser number. It would be an opportunity to appoint more of your friends to these things. The 1981 budget appeared to have been slashed by more than \$500,000 over the 10 per cent of the commission's budget—\$529,000.

Hon. Mr. Walker: We are right up to strength.

Mr. Bradley: It is good news that you are now up to strength, but we are now seeing such a backlog of cases. It is obvious we need more rent review officers to be able to carry out the responsibility, so people are not left in a lurch for four or five months.

Hon. Mr. Walker: Are you talking about the backlog that was there back in June?

Mr. Bradley: The backlog probably still exists in other cases.

Hon. Mr. Walker: That backlog was eliminated. Now mind you, we have inherited a new one because they have just mushroomed in the last two months. They have just gone sky high. The angle of increase is very dramatic and we have a phenomenal number of new applications. But they have arrived basically since October 1 or perhaps go back as far as September. But the backlog as of July 31 has vanished—gone.

Mr. Bradley: But there is still going to be a backlog as these new cases have to be handled, that is quite obvious.

Hon. Mr. Walker: We want to get on a two-month basis. We are anxious to be on two months; that is a normal and decent turnaround. We are not quite like Quebec you know; there are 59,000 cases in Quebec.

Mr. Bradley: We worry about our jurisdiction and we let the members of the opposition in Quebec worry about that.

Hon. Mr. Walker: Five and a half years to get a decision.

Mr. Bradley: The Residential Tenancy Commission itself: I would like the minister to address himself to the problem of appointments that my leader raised in the House the other day. It was my understanding—

Hon. Mr. Walker: I did not think that was a problem. I thought he was applying.

Mr. Bradley:—there is a certain way of doing this.

It says the normal process involved in hiring commissioners to the Residential Tenancy Commission involves four basic steps: advertising in the local press; receiving resumes from applicants; judging qualifications with a view to finding people with financial capabilities; and fourth, choosing the most qualified persons. He mentioned the case of Mrs. Pauline Browes, the campaign manager for Margaret Birch; Mr. William Clarke, a worker in Mr. Sam Cureatz's

1981 election campaign. This information we gleaned from one of the people in your ministry.

Hon. Mr. Walker: Well, that is not the system we use.

Mr. Bradley: It is obviously not, because the system you use is order in council appointments and you just appoint whoever you see fit.

Hon. Mr. Walker: That is the way orders in council have tended to be since time immemorial.

Mr. Bradley: Yes, but what I am suggesting is that if you were to follow it, we understand it to be the reasonable way of doing things. I recommend you do it that way.

Hon. Mr. Walker: I cannot account for your leader's misunderstanding.

Mr. Bradley: I recommend you do it this way. I am not going to waste our time quibbling over this, but I would recommend you follow that policy instead of just appointing political friends of the government.

Hon. Mr. Walker: They are not always political friends. We are not going to ignore political friends from time to time, but—

Mr. Bradley: The other matter with the Residential Tenancy Commission which is of great concern to us is the conflict of interest existing now. Your residential tenancy commissioners are leaving that job and heading off into lucrative jobs with developers, with large landlords, to act as consultants who have an inside track.

Hon. Mr. Walker: They are representing tenants.

Mr. Bradley: We have Mr. Hugh Winsor describing in his column circumstances that have arisen. I am sure you read that.

Hon. Mr. Walker: You mean the chairman of RTC has two examples where these people have left and they are representing tenants.

Mr. Bradley: Are you now then contemplating allowing tenants to get in on the gravy with consultants' fees? You allow the landlords to do it—to charge it against an increased rent. Are

you now thinking of saying if the tenants have to hire some kind of consultant that this could be worked into a reduction in the rent? If you are going to give one, you have to give to the other.

Hon. Mr. Walker: As a matter of fact that is not an untoward comment. If we are allowing it on the one hand it should be taken into account on another. I presume what you do is figure out what the rent increase should be, you would capitalize the cost of the consultant over a few years and reduce the rent accordingly.

I am not averse to the comment you made. I would be interested in some of the ramifications of it that I have not fully thought through, but I am certainly not averse to the concept.

Mr. Bradley: In the last 25 seconds as well I should ask you to address, the next day when we get into this, whether you intend to do anything with the ceiling on rent control at the present time.

It is my feeling that the \$750 should certainly not be reduced as a ceiling. In other words, you should not inflict rent control on people paying lower rents than that. Indeed, there may be some justification for moving that upwards as the rents in the province tend to go upwards. I would ask you to address that.

It is one o'clock and I would like to continue on next day in this vein, but I thought I would get it on the record for the minister to address some of those questions.

Mr. Chairman: Thank you. We adjourn at one o'clock.

Mr. Swart: Mr. Chairman, who do you have on the list next?

Mr. Chairman: Mr. Philip. Is Mr. Bradley finished?

Mr. Bradley: No, but I will be finished in short order next day.

Mr. Chairman: Yes, so it will carry on with Mr. Bradley, then Mr. Philip and that is all I have on the list. The clock has been noted by Mr. Williams so we will adjourn until tomorrow following routine proceedings.

The committee adjourned at 12:58 p.m.

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 Mitchell, R. C.; Acting Chairman (Carleton PC)
 Philip, E. T. (Etobicoke NDP)
 Swart, M. L. (Welland-Thorold NDP)
 Treleaven, R. L.; Chairman (Oxford PC)
 Walker, Hon. G. W.; Minister of Consumer and Commercial Relations (London South PC)

From the Ministry of Consumer and Commercial Relations:

Blair, W. L., Chairman, Liquor Licence Board of Ontario
 Boukouris, P. G., Director, Administration Branch, Liquor Licence Board of Ontario
 Pike, E. W., Deputy Registrar General
 Rundle, T. M., Branch Director and Registrar, Personal Property Security Registration



Ontario, LEGISLATIVE ASSEMBLY

No. J-22

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of Consumer and Commercial Relations



First Session, Thirty-Second Parliament
Thursday, November 26, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, November 26, 1981

The committee met at 4:48 p.m. in room No. 151.

ESTIMATES, MINISTRY OF CONSUMER AND COMMERCIAL RELATIONS

(concluded)

Mr. Chairman: We have a quorum and we will sit until 5:45 p.m., which is just an hour from now. We have about a half hour left for the estimates of the Ministry of Consumer and Commercial Relations.

Hon. Mr. Walker: I should be glad to forgo that.

Mr. Breithaupt: Rather than do that, my suggestion is that the Attorney General's estimates begin tomorrow morning after the question period, and that today we would just deal with the present estimates. This would mean that the staff members from the Ministry of the Attorney General would not have to stay for the little time that would remain this afternoon. Mr. McMurtry has agreed to this, and I trust members will also find it convenient.

Mr. J. Williams: I don't see any difficulty with that. How much time have we left?

Mr. Chairman: We have 31 minutes left.

On vote 1508, residential tenancy program; item 1, Residential Tenancy Commission:

Mr. Chairman: I believe we left off last day with Mr. Bradley not yet finished and Mr. Swart waiting breathlessly in the wings.

Mr. Swart: It was Mr. Philip.

Mr. Chairman: All right, it was Mr. Philip waiting breathlessly.

Mr. Breithaupt: Did we complete the other matter?

Mr. Chairman: I think so, Mr. Breithaupt. When you did not get an objection from Mr. Williams, that was the stamp of approval.

Mr. Breithaupt: I shall try to remember that in the future, Mr. Chairman, and work to earn it again.

Mr. Bradley: Mr. Chairman, I will not repeat the number of the items I had last time. I left them with the minister for his consideration and comment. I would just add two items.

One is the topic of a bill which I believe will be presented this afternoon in the House by the member for Prescott-Russell (Mr. Boudria) with respect to rent control in trailer camps. I would appreciate the minister's comments on the position of those involved and how it can be improved.

Hon. Mr. Walker: Do you want to expand on that?

Mr. Bradley: My understanding is that some people are not sure whether they qualify for the regulations which apply with regard to buildings after 1976 or not. That is my understanding of that problem.

Hon. Mr. Walker: Do you want a fast answer to that right now? Mr. Williams might answer that question directly.

Mr. P. C. Williams: There is a great deal of confusion surrounding the position of mobile home sites. It centres on whether the phase of the park was opened prior to January 1, 1976, or not. The original draft of Bill 163 sought to extend rent controls to the phases which were developed, but where no sites had been occupied at that particular time, in order to end the confusion. However, that particular amendment to the bill was not approved at that time, so we have to continue dealing with whether or not sites were occupied prior to 1976.

Mr. Bradley: That does clarify it because there had been some confusion in that regard.

Mr. P. C. Williams: There is a great deal of confusion. We have to deal with them almost on an individual basis. If you were to ask me at this moment questions with regard to specific mobile home parks, it would be extremely difficult for me to answer.

4:50 p.m.

Mr. Bradley: Thank you. The other item I would like the minister to address is how closely the Residential Tenancy Commission is looking at the refinancing of mortgages.

Some of the tenants who are seeing substantial increases in their rents contend that some increases are not really justified, that somehow the landlords are able to do some skating around. They feel that costs should be supported

by statements and not just by what they call so-called projections, and that building sales should be examined to see if they are genuine arm's-length transactions.

In this connection, today I met someone in St. Catharines, while I was on my way to Toronto, who mentioned a 26 per cent increase in rents. I realize the figures vary from low to what is considered by some to be high.

Hon. Mr. Walker: Was that what was awarded?

Mr. Bradley: A 26 per cent increase was awarded.

Mr. Mitchell: That was the average on refinancing.

Mr. Philip: It ranges from 20 to 40 per cent.

Mr. Bradley: I think it was based on refinancing. I do not want to go into specific cases right now because I realize we are talking about general legislation, but that is an example of what they were concerned about when they saw refinancing. I am concerned that there be a very close look at these refinancing schemes to determine whether or not the increases are justified.

Hon. Mr. Walker: Let us hear from the horse's mouth.

Mr. Philip: Are you asking me to comment?

Hon. Mr. Walker: I said the horse's mouth.

Interjection: He walked into that one.

Hon. Mr. Walker: That is being most unkind on my part.

Interjections.

Mr. P. C. Williams: With regard to the refinancing of mortgages, in most instances we are able to deal with specifics. Either the mortgage has been refinanced, and you have a mortgage document before you and know exactly what the interest rate is, or it is about to be refinanced within the next few days or a month, and there is a commitment from the lender that the landlord will have. So we know precisely what the interest rates will be in most instances.

However, where the mortgage is to be refinanced during the period under review and it is a number of months away, because of the fluctuating interest rate situation we have to take our best guess and sometimes our best guesses are wrong. Sometimes we guess low, and the landlord ends up refinancing the mortgage at a higher rate than what we guessed at. It is an educated guess; nevertheless, sometimes we guess wrong. In other situations, refinanc-

ings take place a number of months down the road, but still within the period of review, where the interest rate is probably somewhat less than what we have estimated.

We have a guideline called a cost correction guideline. It used to be known as a margin adjustment guideline. When that landlord comes back the next year, we make an adjustment to correct an estimate which was either high or low. With interest rates being what they are today, most landlords are taking out one-year renewals. If the interest rate goes down one year from now, the impact of that lower interest rate has the effect of moderating any increase that the landlord is seeking at that particular time. We do the best we can.

In most instances we know exactly what the interest rate is. The mortgage has either been renewed or is on the verge of being renewed, and there are commitments from lenders. In a few instances, they may be down the road a little bit and we have to take an educated guess.

In the instances where we guess too low and refinancing is at a higher rate, the tenants benefit, but there is a cost correction that takes place the following year. Where we guess a little too high and it turns out to be lower, we also make a cost correction a year later.

Mr. Philip: I think there is a basic flaw, which is not your fault; it is the fault of the act and of the minister, I guess, indirectly. What is happening now, and I am sure you will agree, is that the refinancing is quite often a one-year mortgage at very high interest rates and the landlord is able to justify a substantial rent increase. But there is nothing under the act that requires an automatic re-evaluation of the cost at the end of that mortgage.

If we agree that the economists are correct in their predictions related to pressures on the Republican government in the United States, which will be facing congressional elections next year, the pattern of dropping interest rates which we are now starting to see will continue for at least a few months. Consequently, some landlords will use one-year mortgages to justify a large rent increase, and in the following year will simply ask for six per cent.

Unless tenants are extremely well-informed and quite aware of what they are doing, they will breathe a sigh of relief next year and say, "Thank God he is only asking for six per cent this year," and will not go to rent review. There is no way of getting that landlord before rent review unless some tenant twigs to what is happening.

I suggest to you, Mr. Minister, that there should be an automatic review and a lowering of rents if in the subsequent year or years the mortgage goes down substantially in those instances where rents were increased as a result of a higher mortgage. I know of one building housing seniors where the landlord could justify a 25 per cent rent increase. Twenty-one per cent of that was because of a \$200,000 pass-through of a new, one-year mortgage, which will be up for renewal in another four or five months.

The fact that I am on top of this case means that we will go back, even if he asks for a zero per cent increase, if the mortgage rates are down. But in cases where no one is monitoring that situation, they would simply accept the six per cent increase on top of the previous 25 per cent rise.

Hon. Mr. Walker: It is an interesting gap in the machinery. I guess we really have not seen much incidence of it because there has been no reduction as yet in interest rates. If this present trend continues, I must say it is a nice problem to have to adjust to.

Mr. Philip: I recall a private member's bill that could deal with it very easily. It called for an amendment to the rent review act that simply requires an automatic review if interest rates drop at the end of the mortgage term. This could be done in the office; it does not necessarily have to be done with a hearing. The rent review officer could just automatically call up the landlord, ask him for his new mortgage rate and do the calculations in a matter of minutes.

Mr. P. C. Williams: That is true. The refinancing portion could be calculated just the same way. Theoretically, you need not have a hearing if his costs are increasing due to refinancing. However, it is not always simple when there are large sums of money involved. It is not a simple matter of calculation of that particular cost because there are always other costs involved.

Mr. Philip: It could be a fairly simple review. Then if the rent review officer decides that a review is warranted, based on the new mortgage, he could call for a hearing. Sixty per cent of rent goes into financing. That is the biggest component. I am sure you are aware of that.

Mr. P. C. Williams: Our averages are roughly 50 per cent financing and 50 per cent operating costs.

Mr. Philip: I have seen buildings, which in many cases involve the big landlords, where

there is 85 per cent financing. Figures worked out by economists at the University of Toronto for the Federation of Metro Tenants' Associations claim the average is 60 per cent. Even if it is 50 per cent, it is a big chunk. I have yet to see a major rent increase that was not due to financing.

Hon. Mr. Walker: The figure you are quoting is pretty high. Who quoted the 26 per cent increase of which 21 per cent went to financing?

Mr. Philip: I can give you a whole series. There is one in the Bathurst-Willowdale area where there was a 29 per cent increase, of which only 21 or 22 per cent was directly due to interest.

5 p.m.

Every one of the cases I have seen in the Federation of Metro Tenants' Associations claim this. Every one of the cases which have gone over 12 per cent has been related to some kind of financing. I have yet to find one that was not. When you consider that the average increase granted was 11.6 per cent last month, it means that anything going to rent review that is above that average is a financing problem.

Hon. Mr. Walker: You have seen the annual report now?

Mr. Philip: Yes. I am using your figures.

Hon. Mr. Walker: That is an interesting proposition. It is quite a job, I think, from the point of view of rent review people and how they are keeping on top of the changes. What are you talking about in terms of a private bill?

Mr. Philip: It would be fairly simple. As you go through rent review, you simply set up a calendar. It would only be in those cases where the major reason for rent increase was the refinancing; then you simply set up a calendar as to the rate of the mortgage and the date on which it comes due. Your file would then be automatically pulled, so you contact the landlord. You could look at the average rates of interest at that time. If they are down, then you call him. If they are up, then you do not bother calling him because he will be in touch with you for another rent review hearing.

Mr. P. C. Williams: Such a system would have to work the other way too. If interest rates were going up, presumably you are suggesting that an adjustment in rents could take place without a hearing.

Mr. Philip: If interest rates are going up, the landlord will apply for a hearing automatically. It is in his interest as he is a businessman and

knows his product; the tenants do not know his product in the same way. I am just citing the case where he has used the mortgage as a major reason for a rent hike above the six per cent. What we are talking about now are 20 to 40 per cent rent increases in Metro as a result of interest rates, which is what is happening. In those cases you would simply automatically review it and call a hearing.

Hon. Mr. Walker: There are some interesting time periods that come up here. One is the expiration of the term of the mortgage. The second is the expiration of the order. I suppose the third is the renewal of lease.

Mr. Crosbie: It might not be any of those. If the order expired and the drop in the rent occurred, say, a month into the new term, and he has just taken six per cent realizing it is going to drop, then I was wondering if Mr. Philip was suggesting changing the rent in mid-term, or would one wait until the end of that lease?

Mr. Philip: You do a rollback then. The problem is that tenants come and go, whereas the landlord, be it his company or the company that has purchased the property, is the constant and therefore is on top of it; at least, most of the big companies are. Most of the big companies are 85 per cent financed. Anything above that is not counted. It is sometimes 75 per cent, but in the instances I have seen rarely do they have more than 25 per cent equity in the building, so financing is the major problem.

Hon. Mr. Walker: Some of the tenants at the Sutton Place have discovered that in the last couple of days. Are you a tenant there, Mr. Bradley?

Mr. Bradley: No. I just have a hotel room there from time to time. I am not a tenant.

I think it is a valid question. It has really become more of an issue in very recent times because of the interest rates, which were skyrocketing and now are starting to come down again. They are down very slightly today. In addition to that problem, I am going to let the minister address some of the other problems I brought to his attention the other day. I will just add to them the issue of major renovations, and I will not even elaborate on that.

Hon. Mr. Walker: What do you want to hear? A boost for HUDAC on major renovations?

Mr. Bradley: How major renovations are affecting rents and how they are being used to affect rents. I will let you go to the issues I brought to your attention the other day.

Hon. Mr. Walker: I will let Mr. Williams address the question of major renovations and attempt to address some of the issues that have been raised by Mr. Bradley in preceding days. I guess he does not really expect me to answer the matter of the ceiling and what the figure would be in terms of an adjustment to the ceiling?

Mr. Bradley: I assume you are going to retain the six per cent as promised in the campaign.

Hon. Mr. Walker: It was not promised in the campaign.

Mr. Bradley: Was it not? I must inform the candidate in St. Catharines that it was not.

Hon. Mr. Walker: That is probably why he lost. Who knows? It was very clear in the campaign; there was a reference made to the fact that rent controls would remain. I do not think anybody really stuck to the six per cent ceiling. Some of you in this room might have looked at various documents that would suggest the six per cent should be adjusted. To some extent, that was agreed on by other parties.

Mr. Philip: I would like to correct that.

Hon. Mr. Walker: I said to some extent.

Mr. Philip: It was not to some extent. The minister has made the statement something like three or four times in the House. A game is a game but it is not appropriate to mislead.

Hon. Mr. Walker: Wait a minute. Am I misquoting what you said?

Mr. Philip: Yes. What you said was that I said the six per cent was low. In fact, I would like to read into the record exactly what was said in that article. It said: "The six per cent ceiling on rent increases may be a little low," says Philip, MPP for Etobicoke riding and NDP housing critic. But Philip says the NDP is committed not only to continuing rent controls, but also to expanding them." Now that was the quote. I have never said that the six per cent ceiling was too low.

Hon. Mr. Walker: I have not done anything other than read what you have said.

Mr. Philip: You certainly have.

Hon. Mr. Walker: I am sorry, but I have always picked up this document and read from the Toronto Star of Monday, March 16, 1981, which was just a couple of days before the election. I have been very careful to read only what you said there.

Mr. Philip: You did not read the second sentence that clearly indicates we did not plan to change rent review but rather to strengthen it.

Hon. Mr. Walker: But that is a consistent position with what we said. "But Philip says the NDP is committed not only to continuing rent controls, but also to expanding them." We have indicated we are continuing rent controls. I do not think there is anything inconsistent with the previous statement I read of yours that said, "The six per cent ceiling on rent increases may be a little low," says Philip, MPP for Etobicoke riding and NDP housing critic."

Mr. Philip: We never indicated we would change it. Indeed, we said that we would strengthen it. Stop misleading us.

Hon. Mr. Walker: No, no.

Mr. Mitchell: It is quite clear. It is in black and white.

Mr. Philip: It is there in black and white. I just read it to you.

Hon. Mr. Walker: Is this statement a fib?

Mr. Mitchell: It is no different from what most people said. They indicated quite clearly that rent controls were staying. You quite candidly said it yourself; you said that six per cent may be a little low.

Mr. Philip: We are wasting time on this because I think it is clear—

Mr. Mitchell: You raised it.

Mr. Philip: The minister raised it; we did not raise it. If you would wake up and listen once in a while, you would understand.

Mr. Mitchell: You just read from the article. Do not say you did not read from the article.

Mr. Philip: I raised it after the minister tried to mislead the committee the same way he has misled the House.

Hon. Mr. Walker: I am sorry, I would have to ask that be withdrawn because I really am trying not to mislead anyone or to mislead the House. I resent the fact you would make the statement. I simply read what was said in the newspaper. Now you qualified it by saying, "Go on and read it." Everybody selects what he wants to read when he is reading.

5:10 p.m.

Mr. Philip: I have just read the thing in context. Would you like to go on with the other questions now that I have corrected the record and everybody understands what you have been doing?

Hon. Mr. Walker: I must say I rather resent that you would make the comment about misleading.

Mr. J. Williams: Just before we proceed, as a point of order, Mr. Chairman, I am asking that you have Mr. Philip withdraw the statement he made that the minister misled the House. It is unparliamentary and incorrect.

Mr. Philip: I didn't say he misled the House; I said he misled the committee.

Mr. J. Williams: Yes, you did.

Hon. Mr. Walker: You said I misled the House and I misled the committee.

Mr. Philip: That is right. I said he misled both. I will withdraw it.

Mr. Chairman: Now where were we?

Mr. Bradley: We are not misled.

Hon. Mr. Walker: I was in full flight and I was—

Mr. Bradley: He was saying he was not going to change the six per cent and that was in the files.

Hon. Mr. Walker: I did not say that, but to the comment made by Mr. Bradley that we had promised in the campaign to keep the six per cent ceiling, I said there was nothing further from the truth and that was just not a part of it. The Premier is the only one who is on record as having made a definitive statement on it. I believe Mr. Drea might have, but I do not recall reading a reported version of Mr. Drea's comment.

The Premier's statement was simply that rent control would remain. That has been basically sorted out since then. He has said it certainly since the campaign. I am sure others said this during it because there are two people who said it during the campaign. Mr. Epp and Mr. McEwen, who were housing critics past and present of the Liberal Party, said it would have to be taken a look at and that the six per cent is somewhat modest by comparison.

"The Liberals might want to consider an increase in the ceiling on rent increases allowed without a hearing before the tenancy commission, according to Earl McEwen, the party's housing critic. 'The present ceiling of six per cent is unrealistic when inflation is hovering around 12 per cent,' says McEwen, who is MPP for Frontenac-Addington near Kingston."

Mr. Bradley: It was given due consideration and we are in favour of retaining the six per cent. That is my position. I am the Consumer and Commercial Relations critic and that is our position.

Hon. Mr. Walker: Are you the housing critic?

Mr. Bradley: It does not matter. Consumer and Commercial Relations determines what rent control shall be and therefore I am speaking on behalf of the party on six per cent. Next question?

Hon. Mr. Walker: Who is your housing critic? I want to go and talk to him.

Mr. Philip: I have a question. How much time do we have?

Mr. Chairman: Four minutes, Mr. Philip.

Mr. Philip: I have some questions as well. It was decided that we would split the time equally between the Liberals and the NDP on this.

Mr. Bradley: I think it would be easier if we let Mr. Philip go ahead with his questions right now and maybe you can reply in writing or something. You say there are only four minutes left in total? I think Mr. Philip should get that.

Hon. Mr. Walker: You are being generous.

Mr. Bradley: I know the minister never gives good answers anyway.

Mr. J. Williams: You will have to ask the minister, with respect, and let him answer the questions posed by Mr. Bradley last day. I think he gave you a list.

Mr. Chairman: I think Mr. Bradley is waiving the answers to those questions in deference to Mr. Philip.

Mr. Philip: There are a number of questions I would have to ask the minister. A couple of months ago I exposed to the press the fact that there were attempts by your ministry, by the Residential Tenancy Commission, to centralize the rent review offices. At that time your staff people, who were informed of it by the press, became quite shocked that it had got out.

I would ask you what is the present plan on the centralization of offices? Is it true that you plan to have only one residential tenancy office for all of northern Ontario? Is it true that you plan to have only two for all of Toronto? What do you say about the fact that whereas in January 1975 you had a staff of 175, now you have a staff of only 164?

What do you say about the fact that there are seniors in Toronto travelling one and a half hours on a bus at night to attend rent review hearings? What do you plan to do in terms of both staffing and location of offices for rent review?

Hon. Mr. Walker: The answer to the two questions posed about the locations is no and no. The fact of the seniors travelling an hour and a half on a bus to a rent review hearing

surprises me. The location of our offices are particularly well situated for accessibility and we have no intention of changing them.

Mr. Philip: Are you saying you are not going to close any rent review offices, or that you are not centralizing any rent review offices?

Hon. Mr. Walker: To answer your question directly, that is certainly the case with respect to Toronto and northern Ontario.

Mr. Philip: So you have backed off then. Your staff people who were contacted told the press that—

Hon. Mr. Walker: They were probably done a disservice by someone who made a lot of noise to the press, namely, the member for Etobicoke.

Mr. Philip: I think if the member for Etobicoke had not gone to the press we probably would have seen that happen.

Hon. Mr. Walker: No, I don't think so at all.

Mr. Philip: I am glad you bowed to some public pressure.

Hon. Mr. Walker: I think a disservice was done which probably unduly and unnecessarily excited people.

Mr. Philip: It was confirmed by your staff people. Just check the press stories. They said, "Yes, there is a process going on that will do that."

Hon. Mr. Walker: There may have been a process of consideration, but we did many things in the consideration process besides shaking out the Residential Tenancy Commission.

Mr. Philip: I am pleased you have smartened up in your considerations.

Hon. Mr. Walker: I will take that as a compliment.

Mr. Philip: A compliment to the press anyway.

There is the problem of landlords openly breaking the rent review act and the Residential Tenancies Act. In today's paper we have comments from some of the developers about a black market in rents being charged and the sale of keys, among other things.

There is no penalty for this under the Residential Tenancies Act or under the rent review act. Rent review officers to whom I have talked know which landlords constantly do this and they claim that about 10 per cent of illegal rents are detected. They have no power to go in and investigate them. There is no power right now, unless the landlord comes before rent

review, even to check what rents are being charged. I wonder what you intend to do about it.

Hon. Mr. Walker: We think the propensity for key money is more likely to develop among tenants because of the tendency of people to hold over their tenancy from the 12 months for which they had leased to perhaps 13 months. Then suddenly they are into probably a lifelong lease. As long as they pay the rent and behave, they are not evicted, as you know. That lifelong tenancy can then be sold.

As much as we are anxious to stamp that out—I have heard some prices in the range of \$1,500 and I know of some identifiable cases—I do not think at the moment it has reached gigantic proportions. But it is inevitable wherever there is a shortage of supply.

Mr. Philip: My question dealt directly with landlords breaking the law.

Hon. Mr. Walker: I chose to answer it both ways.

Mr. Bradley: Will you write me a letter with those answers?

Hon. Mr. Walker: I will write you a letter any time.

Item 1 agreed to.

Vote 1508 agreed to.

Mr. Chairman: This concludes the estimates of the Ministry of Consumer and Commercial Relations.

There is one more thing. We have a rather urgent private bill to deal with. Could we put it on at 9:45 next Wednesday morning? We require five days' notice. The bill concerns a corporation which, in error, was dissolved voluntarily by articles of dissolution. It owns mortgages to a value of from \$200,000 to \$250,000 which are coming into question, so it is urgent that it be revived as soon as possible.

Mr. Renwick: Are the people here now by any chance?

Mr. Chairman: No, they are not. We require five days' notice. The bill is the Atlas Hotel Company Limited bill in the name of Mr. Rotenberg. It is agreed we will meet at 9:45 Wednesday morning.

We will resume tomorrow morning following routine proceedings with the opening statement of the Attorney General (Mr. McMurtry). On the following Wednesday the critics of the Liberal Party and New Democratic Party will make their opening statements.

The committee adjourned at 5:23 p.m.

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Crosbie, D. A., Deputy Minister
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Ontario

No. J-23

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney General



First Session, Thirty-Second Parliament

Friday, November 27, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, November 27, 1981

The committee met at 11:35 a.m. in room No. 151.

Mr. Chairman: Gentlemen, we have a quorum. We are to consider the estimates of the Ministry of the Attorney General. Mr. Breithaupt, do you first want to make a comment or a series of suggestions?

Mr. Breithaupt: Mr. Chairman, I spent some time yesterday with the Attorney General and Mr. Renwick, the critic for the New Democratic Party, together with the House leaders and their executive assistants, to try to sort out the time that is available to us. There is a desire to free up the expected last week of our sittings for this session so we will be able to attend to the Ministry of Correctional Services.

As a result I have prepared a motion on the division of time which also acknowledges that the estimates will finish on December 11 at 1 p.m. whether or not the exact 17 hours had been technically completed.

Mr. Chairman: Mr. Breithaupt moves that the estimates of the Ministry of the Attorney General be carried as follows:

Friday, November 27, one hour: Attorney General's statement.

Wednesday, December 2, three hours: comments by the two critics, one hour; vote 1401, law officer of the crown, one hour; vote 1402, administrative services, one hour.

Thursday, December 3, two hours: vote 1402, administrative services.

Friday, December 4, one hour and a half: vote 1403, guardian and trustee services, half an hour; vote 1404, crown legal services, one hour.

Wednesday, December 9, three hours, Mr. G. W. Taylor representing the Attorney General: vote 1404, crown legal services, one hour; vote 1405, legislative counsel services, half an hour; vote 1406, courts administration, one hour and a half.

Thursday, December 10, two hours: vote 1406, courts administration.

Friday, December 11, one hour and a half: vote 1407, administrative tribunals.

It is agreed by the House leaders that these estimates will be completed by December 11 at 1 p.m.

Mr. Breithaupt: I made this suggestion with respect to a division of time, which will not only be convenient for the members of the committee in their respective interests in these areas but will also allow the Deputy Attorney General to plan for the attendance of various staff members at a convenient time instead of having people sit about here when I am sure they could be sitting about elsewhere.

That is my proposal, Mr. Chairman, for the convenience of the committee.

Mr. Mitchell: I have just one comment. I recognize the attempt to try to identify the time and make the best use of it, and I don't object to that. However, I hope at the same time that the committee will nonetheless acknowledge, as we have throughout the whole of the Ministry of Consumer and Commercial Relations estimates, that some flexibility is needed on occasion.

11:40 a.m.

For example, I quite honestly question the time allocated to vote 1403. I don't know whether the members on the other side have been asked as many questions as I have in that area. I support the motion but at the same time I would appreciate it if the member moving it would accept the fact there will be some flexibility.

Mr. Breithaupt: Of course that would be the case, Mr. Chairman. It's only a guide; it's just a matter of trying to allow staff planning and make it somewhat convenient for members, who will know they might attend on a certain day because it's likely that vote would be of interest to them.

Mr. Renwick: Mr. Chairman, I agree with the guidelines with just one exception. I think we should strike out vote 1402, administrative services, on December 2 and devote that whole period to the first vote. That would give us two hours there. The Attorney General will be making a long statement this morning.

Hon. Mr. McMurtry: It won't be a long statement. As I indicated to Mr. Breithaupt yesterday, I think, my opening statement will be something under half an hour. I'm quite prepared to use the additional time for any initial responses to my opening statement before the opening statements of our critics.

Mr. Breithaupt: That's certainly convenient. If you believe the two hours next Thursday will be satisfactory to deal with administrative services we could simply delete the line referring to vote 1402 on Wednesday and spend next Wednesday generally on the first vote.

Mr. Renwick: Yes. I am certain other members of the committee will have comments on the first vote. In a sense the general discussion on the first vote on a number of matters might very well shorten the time on a number of the others.

Mr. Chairman: That is certainly satisfactory.

Mr. Williams: On vote 1404, crown legal services: does that involve the legal aid services?

Hon. Mr. McMurtry: No.

Mr. Williams: Let me just comment on that. It's a rather sensitive area, and I notice the time on crown legal services would be split between Mr. Taylor and the minister. If there is going to be any discussion on that item the minister might want to be in attendance throughout that discussion.

Mr. Breithaupt: That would take place on Thursday, December 3, when the Attorney General will be present.

Mr. Chairman: Thank you. Is it inherent in this that, while there is flexibility, the discussion of a certain item will end on the day to which it is allocated and that the next day will start with the next item?

Mr. Breithaupt: I hope we will be able to do that, of course. We know the estimates will end at one o'clock on December 11; I am sure a bit of judgement will have to be used because, obviously, a few minutes may or may not be available from one day to the next.

Mr. Chairman: You realize, Mr. Breithaupt, that the ending of the estimates at 1 p.m. on December 11 has the same weight as the allocation of time throughout this motion.

Mr. Breithaupt: Effectively it has more weight, because I think that's what is going to take place.

Mr. Chairman: In view of the past history of the committee and the fact that it can order its own business, that might be an assumption which would be hard to—

Mr. Breithaupt: That may be the case, Mr. Chairman. Again, it's there for the use of the committee if it's helpful.

Mr. Chairman: All those in favour of Mr.

Renwick's amendment that the law office vote 1401 be increased to two hours from one and that the time be deducted from vote 1402?

Motion agreed to.

All those in favour of Mr. Breithaupt's main motion raise their hands.

Motion agreed to.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

Hon. Mr. McMurtry: Mr. Chairman and colleagues, I have some relatively brief comments to make before we begin discussion in detail on the spending estimates for the Ministry of the Attorney General.

This is the sixth year I have had the opportunity and privilege of taking part in these discussions. I do look forward to the opportunities it provides for thoughtful discussion of the issues and programs that sometimes are overlooked in our rather hectic daily political activities.

My officials and I welcome this chance to explain our activities in frankness, because we know the ministry and the administration of justice generally benefits from the issues and suggestions that are raised in these discussions. Of course we appreciate that the public benefits as well.

At the outset I want to introduce committee members to Mr. Rendall Dick, QC, who recently succeeded Dr. H. Allan Leal as Deputy Attorney General. Before mentioning Mr. Dick further, I would like to say we are all pleased that Dr. Leal is with us once again at the opening of these estimates. We are very happy that, apart from his responsibility for advising the Premier (Mr. Davis) on the constitution, he has agreed to rejoin the Ontario Law Reform Commission as vice-chairman. He is here today in his new capacity as vice-chairman representing the chairman of the law reform commission. That's his official reason for being here; I would like to think the main reason he is here is that it is an opportunity to be with a lot of very good and long-time friends.

Mr. Breithaupt: I think it's just a firebell ringing and he can't stay away.

Hon. Mr. McMurtry: Rendall Dick is obviously no stranger to the ministry, since he began his distinguished public service career with the ministry in 1951 and served as Deputy Attorney General from 1964 to 1972. Before coming back to us on September 8 of this year Mr. Dick, as you know, was Deputy Treasurer of this province for some seven years.

As I have said many times before, Mr. Chairman, the present level of funding of the justice system is, in my view, inadequate. But at the same time we recognize that in these times of restraint there are severe limitations on the resources available to governments at all levels. Greater effort, of course, must be spent on finding innovative ways to deliver essential public services in the most efficient manner possible.

Many of the reforms we have undertaken in both legislation and administrative procedures are intended to do just that: to make the administration of justice as efficient as possible while at the same time making it more accessible to and better understood by the general public. At the same time, it goes without saying that justice should never be equated with efficiency in the sense of assembly-line approaches to matters with such an important human dimension.

Despite the necessary restraints on spending for public services it is nevertheless worth noting that we have made some headway during these past six years. When I came to the ministry in the 1975-76 fiscal year the budget was \$95 million. The estimates we begin considering today are for almost \$184 million. That's an increase of 94 per cent and at least an indication that this government is assigning a higher priority to the administration of justice.

We in the ministry are optimistic that Mr. Dick's experience in the past seven years may be particularly helpful in securing even larger increases in the coming years.

Mr. Breithaupt: He knows where the little boxes are kept.

11:50 a.m.

Hon. Mr. McMurtry: As I indicated, Mr. Chairman, I do not have a lengthy statement, but I would like to highlight some general issues and some programs of the ministry before members begin detailed questioning after the opening statements of our critics. I am sure some of you may wish to discuss the constitution, particularly as I understand the House leaders have decided there will not be a formal debate in the Legislature in relation to the constitutional accord but have agreed the estimates of myself, the Minister of Intergovernmental Affairs (Mr. Wells), and indeed of the Premier, may give an opportunity for members to discuss some of these issues. We welcome this.

The process of renewal, or reconfederation

as some have called it, has been a tedious and often frustrating task for those of us in the ministry who have taken part in it in recent years. But at the same time I must confess my own personal joy and the sense of elation we all felt when the agreement was signed on November 5. In our view this made the years of work and the seemingly interminable meetings from one end of the country to the other all seem quite worth while. I must confess there were many days when I felt the process was futile, that we were too narrow-minded to overcome our regional differences, and that we were simply battering our heads against a stone wall of relative public indifference.

As I have already mentioned, I would be delighted if members wish to deal in detail with the procedures that led up to the accord of November 5, the refinements that have been made since and the substance of the agreement itself. But for now I would like to deal briefly with the process and with the question of Quebec. Looking back on it, I think we succeeded because our differences were the differences of all Canadians, language and culture and political philosophy. But notwithstanding these differences, we saw Canada as being more than the sum of its diverse regions. We saw that what we had in common was far more than what would divide us. I believe that was the spirit and the political will that encompassed the deliberations during the week of November 2 last.

I suppose an editorial in the Winnipeg Free Press the day after the accord put it aptly, if not in totally glowing terms: "In all, the agreement signed yesterday is a typically Canadian document, complicated, untidy and not terribly inspiring. It is the kind of compromise which has permitted the Canadian federation to muddle along for the past 114 years."

The question of Quebec and the refusal of the government of that province to sign the accord is the one very sad note in all this. But as a participant in negotiations, both the public and the private ones, in kitchens and other places, I categorically reject Premier Lévesque's assertion that the other 10 governments have deliberately calculated the isolation of Quebec. As we all know, the people of Quebec are not isolated. It is simply that the government of Quebec has chosen to isolate itself at this critical time in our country's history.

It has chosen that course because of its refusal to bargain in good faith, its refusal to compromise, in the sense that all other governments have done, in reaching what I believe,

despite its imperfections, is an honourable and workable compromise. In the months ahead, as we bring this matter to a conclusion, it is important for us as public representatives to keep reminding the people of Quebec of one undeniable fact. Ten governments were prepared to bargain and to bend and compromise in the interests of national unity. One government, which has no commitment to national unity, was not.

Turning to another issue, I would like to spend a moment on the important and somewhat related question of French-language court services. Members will recall that on November 19 I announced an important extension of French-language services in the civil courts. As of April 1 next year, the right to the use of the French language will be assured in civil trials in designated areas with the greatest concentration of French-speaking residents, as well as here in Metropolitan Toronto, the provincial capital.

In addition, the provincial court, family division, and the provincial offences courts in each of these locations will be designated for trials in French. This latest expansion means a broad range of civil court services in French will be available in areas where 83 per cent of our Franco-Ontarians live. This is in addition to the provisions by which access to bilingual criminal courts have been available and guaranteed to every person who wishes to avail himself of such trials for the past two years.

Further, effective December 15, a system will be established for the translation of wills when they are to be registered on title. This measure will remove any impediment there may have been to a testator wishing to make a last will and testament in French.

I have recited these facts simply because I think it is useful, even for those of us who are intimately involved in and committed to this service, to be aware of how far we have come in quite a short time. It was only five years ago that we set this program in motion with a pilot project in the provincial court, criminal division, in Sudbury. Our step by step, *étape par étape* approach demonstrates that it can best ensure a true flourishing of the French language in the courts of Ontario.

As a result of our latest initiatives, the official use of the French language in civil trials in Ontario will be a reality. I am particularly pleased with the fact that it will now be possible to have a trial in the French language at any level of court for any type of case right in our

provincial capital of Toronto. I want to emphasize these are not privileges, but rights. This has been a success because of the hard work and dedication of a number of judges at all levels of the system as well as members of the legal profession, law enforcement agencies and, not least, staff of the ministry.

In that respect, I would like to pay particular tribute, as I did publicly last Saturday at the second annual meeting of the Association Juristes d'expression français in Ottawa, to our French language co-ordinator, Etienne St. Aubin, who has provided great leadership in this area. His commitment and dedication is to a large extent responsible for the progress we have made in the last two years. Despite suffering from a very serious illness during the spring and summer, some of which is still with him, he continues to be an inspiration to all of us who are committed in this area.

I would like to note too the role of all members of the Legislature, from all parties, who passed the legislation that puts these services on a sound legal foundation and who, for the most part, have dealt with this program in a relatively nonpartisan way. That atmosphere has, I believe, played an important part in helping us develop these services and I have no hesitation in thanking all members for it.

In conclusion, I have to state that one of the nicest compliments I have received—and I do not receive many compliments—was when the chairman of the meeting on Saturday in Ottawa introduced me to a group of people, who are not traditionally necessarily supporters of our party, as a UFO, an unidentified Franco-Ontarian.

Mr. Piché: I have to write this down.

Hon. Mr. McMurtry: Members may recall that in January of this year I appointed Professor Alan W. Mewett, a professor of law at the University of Toronto, to conduct a review of the role of the office and function of justices of the peace in Ontario. I said at the time I expected the review to develop recommendations to strengthen the office of justice of the peace within the administration of justice. Professor Mewett has submitted his report and the recommendations are under active consideration by senior officials of my ministry. I have requested comments from the judiciary and representatives of the justices of the peace and other interested parties.

I have requested, Mr. Chairman, that copies of this report be made available to members of this committee. I don't know whether that has

been done yet but, if it has not happened as of this date, we will see they are delivered, perhaps over the weekend.

12 noon

I anticipate I will be in a position to proceed with many of the recommendations in the relatively near future. However, members will appreciate that in a system that embraces every area of the province, it is not possible, without full consideration of the impact of some of the recommendations, to state at this time that they will be adopted in full. But I accept the concept of an office of associate chief judge, reporting to the chief judge, to administer the justice of the peace system. I intend to proceed with this appointment, which will be vital to the implementation of any changes. We also accept Professor Mewett's recommendations considering the necessity for a more structured training and educational program.

Mr. Renwick: Is that report available?

Hon. Mr. McMurtry: I have just said—I guess you were talking to your colleague—that I have asked my office to make it available to you and, if it hasn't been delivered, I will see that takes place over the weekend or the beginning of the week.

Senior officials of my ministry and the Civil Service Commission have also commenced a review of the recommended salary scales. This review had commenced some time before the report had been concluded and delivered to us. Salaries of justices of the peace will, I hope, be commensurate with their important responsibilities.

I would like to turn now to the question of accommodation which members have from time to time raised with me. I think it is important to remember that when the province took over the court facilities from local governments, we inherited in many cases a rather rundown stock of courthouses, many of which had been neglected for decades. We have steadily been replacing obsolete structures and whenever possible preserving some existing court buildings, which have such an important place in the history and the heritage of Ontario.

In this fiscal year, we have four major projects already completed or under way. These include expanded space for the provincial court, criminal division, in Ottawa and Bracebridge; for the county court here in Toronto; and a brand new courthouse in Newmarket to serve that new judicial district. These projects cost \$13.6 million. We have projects under construction this

year in Brampton, St. Catharines, Hamilton, Sudbury, London and Toronto. The cost of these is estimated at \$19.3 million.

Fifteen other projects are in the design stage. These include expansions, relocations and renovations in Hamilton, Peterborough, Oshawa, Cambridge, Sarnia, Toronto, Parry Sound, Timmins, Kenora and Sault Ste. Marie. We also have under design a new courthouse for Ottawa, estimated to cost \$46 million, and a new justice complex in downtown Toronto estimated at \$85 million. The total cost of these 15 projects is estimated at \$169 million.

As I indicated earlier, we have made a number of legislative and administrative reforms in recent years to improve the quality of service to the public and also to ensure that we are as efficient as possible. Perhaps the most important of these reforms were the implementation of the Provincial Offences Act and the Trespass to Property Act, both of which made justice more convenient and accessible to the public as well as enabling us to carry out some administrative efficiencies.

At present, we are putting into place in the provincial court, criminal division, a computer system which will improve the quality of service the court provides as well as enabling a much more efficient handling of the enormous caseload this court carries. The system, tested in the Oshawa court office since December, 1978, will be expanded to Hamilton, Ottawa, Peel region, Windsor, London, Kitchener and Newmarket. It will be phased in over the next 18 months.

The new system automatically prepares court lists, notices to the public and driving licence suspension orders when court fines are not paid. In addition, it will provide improved case scheduling in traffic courts and produce financial and management reports on the courts. A member of the public will be able to find out the status of his case in seconds, rather than having to wait for a court official to search through files and records for the information.

The system includes a complete index of all cases and access to it is made by court officials using cathode ray terminals. This means almost any inquiry regarding a case can be answered within moments.

In addition to the new computer system in eight cities, the existing computer system in the provincial court's criminal division in Metropolitan Toronto is being updated. The provincial court's criminal division deals with approximately four million cases a year across Ontario. The court offices to be computerized deal with approximately three million of these cases.

Cost of the new system is \$100,000 to install and \$500,000 a year to operate. This will be more than offset by savings in staff costs which will result. When I say four million cases a year, I assume that includes provincial offences and is not strictly criminal cases.

As members are aware, the Ministry of the Attorney General is accountable in an administrative way for a number of royal commissions, inquiries and studies. Among these is the study by the task force on vandalism chaired by His Honour Senior Judge Lucien Beaulieu of the provincial court family division.

Along with other members of the Legislature, I have received more correspondence from the public and from local government agencies about this issue than on any other subject in recent years. I hope to be able to release Judge Beaulieu's report early next week. Members of the committee may want to discuss it at some later stage in these deliberations.

At the outset of this discussion I spoke of the necessary restraint on government spending and the challenges that fact of life poses for the justice system. I will admit I am troubled by the possible long-term consequences of a prolonged period of restraint, certainly in the area of the administration of justice.

The statistics would indicate some danger exists with the caseload we must process, as that caseload is growing faster than the increase in the resources that we have to handle it. In fact, one can foresee a collision course in the future with obviously undesirable consequences. I stress that I do not want to raise unnecessary concern or indeed to be an alarmist, but I want to share with you some of the research the ministry staff has carried out.

The crime rate increase over the last two years has been 11.5 per cent according to the Canadian Centre for Justice Statistics. This pattern of increase has prevailed for many years. In addition to the basic statistical growth, there are a number of other factors which impact upon the system. I will mention three: the growth in organized crime and in crimes requiring lengthy investigation and preparation as well as actual trial time; the growth in the size of the defence bar and what we see as a

tendency to become more litigious generally as a society; and the increase in the number of cases going to the higher courts.

The resources available for the administration of justice have simply not matched this growth in caseload or in caseload complexity. My officials are currently projecting an overrun of \$6 million in this fiscal year. In short, the demand and need for justice services is outracing our ability to supply them. The consequences include ever-growing court backlogs, delays in justice and, potentially, the loss of respect for our system of justice, which we would all agree is the bedrock of our democracy.

I stress again, Mr. Chairman, I do not want to appear to raise unnecessary concerns or be melodramatic, but I do feel I would be neglecting my responsibilities to the opposition critics, the members of committee and to the public if I do not continue to voice these concerns.

I will be glad to discuss the matters I have raised or any other issues of concern to members as will my officials. Again, I stress that we look forward to the positive discussions that usually take place during the course of these estimates and the useful and helpful suggestions I know will be made by all members of the committee.

Mr. Chairman: Thank you, Mr. Minister. Mr. Mitchell.

Mr. Mitchell: As a matter of procedure, Mr. Chairman, based on the motion that we have just passed, what is our procedure for the balance of this session?

Mr. Chairman: Unless someone has some questions to ask coming out of that on an unstructured basis, I believe we adjourn for the day until next Wednesday when the two critics will make their statements.

Mr. Mitchell: I would then so move, Mr. Chairman.

Mr. Chairman: That seems to be the consensus. We will adjourn until 9:45 next Wednesday morning for that private bill and at 10 a.m. we will carry on with the Attorney General's estimates. Thank you.

The committee adjourned at 12:13 p.m.

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Ontario

LEGISLATIVE ASSEMBLY

No. J-24

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney General



First Session, Thirty-Second Parliament
Wednesday, December 2, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, December 2, 1981

The committee met at 10:02 a.m. in room No. 151.

After other business:

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

Mr. Chairman: We will now recommence the estimates of the Attorney General. Also, having my glasses off and continuing to see a quorum, perhaps we would continue with that.

We have 16 hours and 26 minutes left and I believe where we left off, the statements of the Liberal and NDP critics and vote 1401 will be the business of the day. Who is the critic? Mr. Breithaupt?

Mr. Breithaupt: Yes, Mr. Chairman. I am pleased to lead off on our comments with respect to the Ministry of the Attorney General. This is the first time I have had the opportunity of speaking to these estimates over the variety of years that I have done other things in the Legislature.

Of course, for any lawyer, as a member of the Legislature, to be in this critic's role or to view the other individual lawyer who is the Attorney General (Mr. McMurtry) is a great undertaking. The responsibility which the Attorney General has in our system and the requirement of him to be a senior counsel and also the epitome of the theme of law officer of the crown is one all the lawyers on the committee and indeed in the Legislature are most mindful of.

The system by which justice is administered in our province is the highest manifestation of the ideals of the democratic and, I dare say, liberal society in which we live. The Attorney General referred in his statement to the bedrock of society upon which all of our institutions rest. That is certainly the principle that the law, quite apart from its content, is applied equally in all situations and must be seen to be applied to persons to which it relates without fear or favour, as in the relationships of the administration of the police system and of the courts, to rich and poor and to the powerful and the humble alike. It is certainly the sanctity of this principle which any lawyer must seriously consider as he

takes on the overview of the administration of justice within our province.

My remarks will not be lengthy. They will be divided into two parts.

First of all, I would like to deal very briefly with some general observations on the nature of the system which administers justice through the Ministry of the Attorney General, the importance of the system and the objectives of the system. In the second part of my remarks I am going to outline areas of specific concern which, in my view, against this earlier context, warrant the consideration of this committee.

Before I do that I think I should comment on the retirement of Dr. H. Allan Leal, QC, as the Deputy Attorney General of Ontario. Dr. Leal was known to me as the dean of the law school when I was a student there. I have known him as well through some militia interests we have held in common and of course his service to the province has been a most distinguished one, one which we are all delighted is not at an end but is just moving into a new phase, that of returning to the Ontario Law Reform Commission of which he had been chairman and to which he now returns as a member.

In commenting on Dr. Leal, I think it is opportune to talk about the new Deputy Attorney General, or at least the recycled Deputy Attorney General. Rendall Dick has been, again, another of that hardy band of persons who epitomize really the strengths of the public service of this province.

10:10 a.m.

He has had a variety of tasks, all of which he has performed with distinction and I would presume, even though one reads in the press that he may move on to other things in other ministries, that he will have the opportunity to stay with the Ministry of the Attorney General. I would think the Attorney General could not be better served by anyone else and most probably is very pleased this opportunity has come up for Mr. Dick to return to this ministry. I think this is where the praise should end; we will see what the future holds.

In any event, although it may sound trite I think the primary characteristic of a legal

system is that it must contain rules for the regulating of human behaviour and for the settling of disputes. Within the context of a federal state, even reviewing the circumstances that lead us today to have a final vote in the House of Commons on our new constitution, we see that our system as it has developed has maintained differing responsibilities for the Minister of Justice federally and for the Attorney General within the province.

Within a federal state, and to the extent that provincial jurisdiction allows the apparatus and the machinery for the creation and enactment and administration of those rules, the task is that of the Attorney General. The part of that machinery which deals with the drafting of laws, such as the law reform commission or the legislative counsel services, is available not only to the government but to members of the Legislature to be called upon for tasks. The policy development branch would not necessarily have a very high profile in the mind of the public, but this is the nuts and bolts of how laws are created and, of course, the requirements under which they can be administered.

By contrast, the arm which deals with the enactment of the laws is by its nature very visible to the public and therefore enjoys and is subject to a very high level of scrutiny in the administration of the courts. But regardless of the profile of the individual parts of this whole apparatus that we call the administration of justice in this province, the sum total of those parts, both in terms of the concrete substance of the rules and the formal procedure by which they are applied and interpreted, must always be associated with the notion of justice.

The ultimate goal is that function of justice which all of the apparatus of the system, all of the component parts of the Ministry of the Attorney General, must strive to attain.

The importance of the system by which we must administer justice that I do not think anyone would question can be found in a variety of items of literature throughout our history. Perhaps the earliest reference that many of us might have been exposed to at one point or another is written in the book of Deuteronomy, chapter 16, verse 20, when it says, "Justice, justice shall thou pursue."

That is a theme which has troubled many writers across the history of recorded time and indeed it was so significant as a thought that the writer repeated the word "justice" in that context. Some have explained this otherwise seemingly redundant use of the word on the

basis that just laws must be administered and enforced in the public only by equally just means.

But the emphasis on justice in substance and in procedure is that at all times the overriding guideline by which the apparatus of our system, in our case the Ministry of the Attorney General, must be seen to be operated is in that term of justice. In the terms of democratic society this is ever more so the case. No single institution more embodies central authority or government to the ordinary citizen than the machinery which administers justice to our people.

As confidence in that justice system falters, so will falter confidence in any institutions and the traditions of our society at large. Perhaps this was best expressed by Reinhold Niebuhr when he wrote, "Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary." Certainly law without justice is a mockery, just as justice without law is chaos.

In looking at the objectives of the system in its operation the Ministry of the Attorney General must at all times be conscious and even zealous to ensure the actual and perceived justice or fairness of the system is clear in all of its aspects, and this constitutes our main objective. Scholars have long discussed the minimum components for an efficiently functioning fair, modern legal system.

Professor Fuller has identified at least eight such components against parts of which, I suggest, the workings of the Ministry of the Attorney General must be weighed. These components are: first, the generality of the rules; second, the promulgation of the rules; third, prospective and not retrospective operation of the rules; four, intelligibility and clarity of the rules; five, avoidance of contradiction both within the rules and the procedures applying the rules; six, avoidance of impossible demands; seven, avoidance of frequent changes; and eight, congruence between official actions and the declared rules. I shall not refer to our Deputy Attorney General's return as the item under number seven, the avoidance of frequent changes, that we must deal with, but more of that later.

To the extent that the ministry is not out of step with these sort of litmus test components, confidence and therefore respect, by and large, for our society's interests will be secured. I think as we look back in the terms of these rules we will find, those of us who are lawyers and have

worked in a variety of aspects in the system across the province, that the necessity of this firm context of clear interpretation of the law and having the law stand for the same things and being interpreted in the same ways is, as the Attorney General indicated in his opening remarks, clearly the bedrock of our society.

As the second area of my interest I would like to refer to a number of specific areas of concern, which I think form an overview and comment on the operations of this ministry and which no doubt will be expanded upon in particular votes as we move through the hours available for these estimates.

Each of these areas of concern, I suppose, will somewhat test the mettle of the operation of this ministry and, of course, the responsibilities which the Attorney General and his senior advisers have will carry with them their own social implications. In this regard I think it is fair to say that the Ministry of the Attorney General has looked not only at the system as it exists now, but at the expectations of the system which the future brings as our province changes in the component parts, in the size of our communities, in the makeup of ethnic backgrounds or other traditions that do not always fit in so readily with what we have been in Ontario over the past 200 years.

In this regard, the ministry is guided, I would hope, by the comments of someone like Justice Cardozo when he said: "The law, like the traveller, must be ready for the morrow. It must have a principle of growth."

That is an attitude in which I think the present Attorney General, in the six years that he has had this task, has given leadership and I congratulate him on that—not only in the operations of the law reform commission and in the way that those reports, in great detail, have been received by the government, but also in the attitude which has been brought to the changes within our society. I think it is only fair and appropriate to say that the Attorney General has been a leader in that area and I believe in giving credit where I think it is due.

If we look at the theme of social violence in our society, we recognize of course that we may be in for some difficult times, particularly over these next few months as we look at an economic recession that is not only gripping much of the western industrialized world, but also is more particularly involved in some uncertainty for the future within our country and indeed within our province.

I recognize that it is not a matter of party label

and it is not a matter of saying whose fault this might have been or whose friends are doing what to whom in various aspects of government. It surely is a theme which is going to be a burden on all of us in trying to maintain the fabric of our society.

There is an atmosphere of economic worry and uncertainty. We meet it in the various constituency problems we have from time to time. We see it certainly in the various plant closings and the disruptions in patterns of living that are going to be a burden to many thousands of our citizens.

10:20 a.m.

This stress weighs very heavily on a large portion of our population and, in a fertile climate like that, great tensions can flourish. People become victims, and one of the major functions of the ministry, as I see it, in these next few months particularly, is to guard against this potential victimization. The persons most vulnerable, of course, are women and the visible minorities.

In so far as women are concerned, I recall to the minister the words of my friend and colleague Margaret Campbell when she spoke here just a year ago:

"I would like to comment on the performance of our so-called justice system in response to the problem of battered wives. In order to give a complete picture, I will address myself to the police, the justices of the peace, the crown attorneys and thus the offices of the Attorney General and the Solicitor General. Despite the high incidence of assaults against wives, despite the severity of many of these assaults, despite their wilful and horrendous consequences for the wife, the children of the relationship and, in the long run, for society as a whole, wife assaults are treated differently from any other form of violent behaviour in our community today."

Mr. Chairman, those were Mrs. Campbell's concerns a year ago and with the economic stress now apparent in many parts of our society, I think her admonition is no less compelling today than it was last year.

Concerning the vulnerability of visible minority groups, I note with sorrow and apprehension the recent unwelcome arrival on the pages of our local newspapers of the Ku Klux Klan. I hope that none of our citizens are attracted to this pernicious organization and that, thus reduced to oblivion and irrelevance, the Ku Klux Klan and others of its kind will simply wither and be heard from no more.

I suppose that is a risk. It is a risk not to report

activities in the hope they will go away. It is a risk for anyone responsible for the administration of justice to try to strike that balance between what is realistic in dealing with a very small group of persons and the necessary comments which those in the administration of justice must make from time to time. They must deal with the fears of many in our society who have seen this kind of thing in communities from which they have come, or in other societies that have fallen prey, not only to those forms of hate and ridicule but to great loss, both human and otherwise, of the assets and activities of persons who have fled that kind of system. It is difficult to strike that balance between shouting from the rooftops or some middle ground and ignoring it with the hope it will go away.

With the ideals of tolerance and equality that have formed the basis of our society and that are certainly one of the major strengths of our province we must all affirm that the culture of democracy is completely inimical to and will reject this rather seamy subculture of intolerance and inequality.

Another theme I would like to refer to briefly is that of restitution to victims of crime. It is my view that victims of nonviolent crime should be compensated—as far as possible, of course—by the perpetrator of the crime for the loss which is suffered as a result. By requiring the perpetrator to confront his victim as part of his punishment would focus his responsibility, not only to the faceless society at large, but to the very human face of his victim. I submit that the impact of such a policy on the deterrence of similar behaviour would be significant and I would urge the minister to consider impressing this view upon his federal colleagues, under whose authority the Criminal Code falls.

I would hope we could have a comprehensive approach to the inclusion of personal restitution in sentencing, not as it presently exists, which is an approach that defies predictability, but in trying to rebuild some kind of relationship between the victim and the criminal.

One notes immediately the recent comments of Judge Beaulieu in his report on vandalism when he made the same kind of recommendation, that there is much to be gained in our society from having some face to face circumstance which may be embarrassing, which may be awkward but which may bring a relationship and more of a sense of responsibility than the otherwise more general approach of paying the

fine or simply doing some community hours of work with no particular relationship to the person who was injured.

To the extent permitted under provincial jurisdiction, I would hope the minister will give as well consideration to some guidelines, either legislative or through the administration of the courts, that would put this kind of policy into effect.

In the estimates of the Solicitor General we referred at that point to the whole theme of police car chases. This becomes also a function of the administration of justice and it is one which has been a constant burden over these last several years as we have seen a variety of articles in the press, a variety of comments made. The Attorney General, of course, made a statement on this subject several days ago as he introduced a new bill which will include, among other things, a clear understanding that the loss of licence will follow from a conviction of a person who is found to have entered into this kind of circumstance involving a car chase.

I am glad to see that. To my mind at least, just as the carrying of a weapon in the commission of an offence is worthy of a penalty of its own, whether that weapon is used or not, because of the attitude in which that individual has entered into that path, so may this system be brought back into some balance in this circumstance by a clear knowledge that entering into a chase situation can bring its own separate penalty, and a serious one.

I really think we have lost that balance. I know it has been a concern to the Attorney General, as it has been to all of us, that whether or not a chase should have occurred is in some way attempting to sit in the back seat of the police car and say, "You have seen an offence, you have seen something and yet you decided not to pursue what it is your sworn duty to do, which is to go after a person whom you know or have reason to suspect has broken the law."

That is a difficult thing to accept as you see cruisers damaged and policemen injured and pedestrians killed. The property damage alone is a nuisance, but I could accept that if I had the assurance that lives were not being put in jeopardy. That must be a burden for a policeman. I think I have some sense of that because my nephew happens to be a constable in the RCMP, doing exactly this sort of work in Manitoba.

There have been some changes which I hope will result in success. I am glad to see this amendment is being brought in; it certainly will

have our support. Yet I hope something more is going to be done. We do not have to repeat the grim statistics I have referred to, but the need for action is immediate.

I know that the parliamentary assistant, Mr. MacQuarrie, the member for Carleton, had commented that obviously police discretion on the spot is going to have to be allowed and encouraged and accepted in our system, which relies so much on the decision of the constable on the spot. There have been some successful and, apparently, innovative approaches throughout the United States of which the Attorney General is aware. I am concerned about the price in lost lives and injury and aggrieved families which we all are paying as we try to apprehend persons who may have been involved in violations which initially have been of a very minor aspect.

I very much hope this new legislation is going to help strike that balance. If it does not, then we may have to come up with something else. I know the Attorney General is as concerned as we are all in trying to find this middle ground which will bring to the attention of the person breaking that particular aspect of the law that, whether other things may have been trivial or may be very important, it brings about its own penalty.

10:30 a.m.

Another theme we must refer to in these opening remarks is freedom of information. We have seen the report of the speech by Mr. Sterling who, as Minister without Portfolio, has the responsibility in this particular area. That approach would apparently refer the matter back to what would, in effect, be a commitment from the cabinet to make decisions from time to time, to be accountable and presumably, in the fullness of time as an election draws nigh or is dealt with, those issues would become rolled into all the other issues as to whether a government deserves continuing confidence.

However, I think that a freedom of information bill has really been avoided. If we look back at the articles and indeed the legislation which was brought in initially by Mr. Donald MacDonald, the member for York South, it has been a theme in which he has been particularly involved and I think the failure to really proceed with legislation, not only through the aspects and responsibilities which Mr. Pope had from time to time but which are now also Mr. Sterling's involvement, reinforces what has to be a theme that I find regrettable, which is that the government to some great extent is resisting

access to information. This perception, I think, harms the administration of justice in our province.

We have had two commissions at an expense of over \$3 million and having had those commissions we have been promised the introduction of draft legislation by the end of 1980. Here we are, two years later, on the threshold of 1982, and still no nearer to the promised legislation. I doubt if anything will come before us even in a form that could be considered generally in caucus within the next several weeks and, of course, with the Legislature not returning probably until the spring, we shall be well into 1982 before even proposed legislation comes before us.

Our objective has been set back even further if the version of the legislation that could possibly occur is that which we have seen presented by Mr. Sterling. He would bar the courts from any freedom of information dispute. He would, in their place, rely on the cabinet to decide an appeal from the original decision of a cabinet minister who refused to disclose information.

Even as late as October 1 a comment in the Windsor Star asked, "How, in the face of such delay, can the people of Ontario have confidence in the men and women who serve them?" I would ask, in the face of a proposal like that by the minister, "Why would the people of Ontario want to repose confidence in those men and women?"

There are a couple of other themes that I think I should refer to. One is the ongoing difficulty and awkwardness of having one individual serve as both Solicitor General and Attorney General. It is difficult where the people who are involved in basically providing information to the system, that is the police forces, have the same person responsible for their activities as those who are administering the courts. I honestly do not think I can refer to any particular example of conflict that has occurred because of this, yet the potential may be there. More importantly, it does not seem to be the right way to do it.

We have talked about this over the years and, of course, as government changes through various reorganizations and creations, or the passing on of ministerial responsibilities, some things that seemed a good idea at one time come full circle and suddenly do not seem to be as good an idea any more. I think this attitude of the possibility of conflict—even though, as I

say, I have no example of it that has ever been brought to my attention—is something which I think is worthy of consideration.

I say this without question, Mr. Chairman, and with the highest regard and respect for the functions the Attorney General performs and his role as well in taking on the added responsibilities of Solicitor General. I understand, indeed, these responsibilities are not matched with two pay cheques which might be something else that does cross his mind from time to time. But the people of the province, I think, have to be assured of a better sense of independence in both substance and form.

I would hope that the time will soon come, and indeed it may well do so, that these tasks are separated and that two individuals are given responsibilities in this area because, again to go back to the earliest remarks the Attorney General made, it is indeed the bedrock of our society, the administration of our justice, of our courts, of the entire system, and the responsibility we all have, not only those of us who are lawyers and officers of the court. The members of the Legislature and, indeed, all those members of the public who are generally concerned with this theme as well, I think, have a feeling that it is time it was reviewed, and I hope that opportunity will come forward.

In the area of legal aid, problems will develop over the next several months, particularly in regard to women and visible minorities, as a result of the economic stresses which our economy is undergoing. For this reason we have a special obligation to ensure the vitality of the legal aid system in Ontario.

I should say that my main concern is really for the lawyers who provide their services on the basis of legal aid certificates. I am certainly no threat to the system. I have not practised for the last six years and my practice as a solicitor did not involve itself in the kinds of matters that are usually the subject of legal aid certificates. But many of the lawyers who are providing services under the legal aid system are the newer lawyers, certainly those who are at the lower end of the financial scale of the profession. Given that, and the fact that they are in effect required to donate a portion of their tariff fee back to the plan, it makes one wonder whether we are treating the system fairly.

The tariff fee is low to begin with. It is certainly not generous in relation to time expended, which must be taken from other matters, and to the costs of running a law office. It is these younger lawyers really who are

bearing the brunt of the portion of the legal aid plan that we expect to be contributed by the legal profession. It is somewhat unfair because while these lawyers are well trained, keen and are dedicated to maintaining high standards, the compensation they receive is the lowest in the field.

Last year, about \$30 million of a total approximate budget of \$165 million in this ministry was paid out in fees to the legal aid plans and through the necessary disbursements in criminal and civil cases. I think that represents an insufficient portion of an insufficient total. I believe from the Attorney General's opening remarks that he too is concerned about the proportion of our resources which are being used in the administration of justice.

I think the situation with respect to legal aid requires some changes. My recommendation would be that either we adjust the tariff to reflect the rate of inflation, or we say that the tariff is a very basic one and we forgo the statutory 25 per cent return of fees. I feel it has to be dealt with one way or the other. If you want to have lawyers involved in a legal aid pattern, then they must be paid fairly.

I recognize that contributions from the members of the law society through the legal aid plan has been the way this system has grown up; there has been a tariff and a 25 per cent return. But I think it would provide a better balance for the costs involved if the tariff were to be allowed, in total, to those lawyers who participate in the legal aid plan, the new, young lawyers.

The alternative, of course, is to raise the tariff and continue this pleasant fiction of responsibility by maintaining the 25 per cent return. If the tariff were a little higher, that probably would not be a bad idea from a professional point of view as it would show the contribution and involvement of lawyers. But if you cannot raise the tariff, then I think this statutory deduction requirement has to be reconsidered in order to give fair treatment to the lawyers who are in the plan.

10:40 a.m.

The confidentiality of medical records is another area which frequently comes up in the administration of justice. I have been chairman of the select committee on company law for the past five years, during which time this matter has been looked into in our studies of life insurance companies particularly and also to some extent the general insurance companies, in connection with claims.

Our fifth and final report on insurance in Ontario—and I underline the word “final”—is now at the printers. While it has not been tabled in the House, I think I can say that the members of the committee were all concerned about the matter of confidentiality of health records. The committee wished to ensure that information was readily provided and thoroughly available to persons who made decisions, but that it would be kept secure from persons who did not need to know the medical background or health history of an individual.

There will be recommendations on that particular point, which I think it is fair to say will review the comments made by the Krever commission and, hopefully, be of some use in the continuing study of the matter necessitated by the sometimes ready access to computerized information in this day and age.

The Krever commission report was released almost two years ago, and was widely acclaimed for its honesty and comprehensive approach. But since then it has just collected dust. This ministry has not taken the action I would have hoped it would do, either alone or in concert with the Ministry of Health, to clarify the law and protect hospitals and doctors, and also patients.

Earlier I quoted Justice Cardozo about preparing for the morrow. I hope that in planning for the future the Attorney General and his senior staff will look seriously at this whole matter over the next several months. Perhaps the report of our select committee will be of some use in encouraging that look, because I think we have reached the time for some positive action with regard to confidentiality of personal records.

The silence on freedom of information, generally, and the failure to move on confidentiality is confusing and I believe it is harmful to the integrity of the government in the light of the October decision in the Supreme Court. The public sees hospital boards in the ludicrous legal position of being prohibited from disclosing private medical records to the police, while doctors and hospital employees are apparently allowed to do so with impunity.

The lack of action on the Krever recommendations, or the lack of a commitment by government to move with regard to disclosure of confidential medical records, has in effect placed health care workers in a status akin to that of police informers, and I find that distasteful.

Although this next matter falls in the purview

of the Ministry of Consumer and Commercial Relations, I believe the perceived problems in relation to the operations of the Residential Tenancy Commission cannot help but involve the Ministry of the Attorney General within the coming year, inasmuch as rules of natural justice will emerge, in resolving the disputes which will inevitably occur.

In the wake of recent disclosures this arm of the system of administration of justice—because it is in that light, I think, that we must look at the Residential Tenancy Commission—has fallen under a cloud of public suspicion and distrust. We have seen commissioners leaving their posts and returning to the arena immediately afterwards as consultants to landlords. We have seen what I think is the questionable manner in which some of the latest appointments have been made, which is unfortunate, because the appointees may be quite worthy and capable of the task.

What is most important is that we have seen long delays, months in some cases, before tenants and landlords can obtain a hearing, which exacerbate the problems. The longer the problems are allowed to fester, the longer it takes for the appropriate increases to be put in place. That is a burden for both tenants and landlords because the system surely must be balanced. It requires fair treatment of both parties.

The public perception in these economic times is that the administration of justice in our province has collapsed. It may be necessary for some form of an inquiry, perhaps within the ministry, into the general operations of the commission. I know the Minister of Consumer and Commercial Relations (Mr. Walker) is aware of the problems which have developed and I am quite sure he wants them to be resolved. Clearly something is going to have to be done, and be seen to be done, by the Ministry of the Attorney General in co-operation with the Ministry of Consumer and Commercial Relations, to have some kind of review—if “inquiry” is too harsh a word—of the operations of the commission.

We are all aware that rent review in some form or other is going to be with us, particularly in the Metropolitan Toronto area, for some years to come. How the public perceives the manner in which it is handled is going to be an important factor in the coming year.

There are other issues of concern, Mr. Chairman. I have not made an exhaustive list in my opening comments. Many of them will

require the attention and resolution of the ministry and observations by members of this committee as we deal with them under the relevant votes. The issues, I suppose, have no end because the administration of justice has no end. In that sense, even though we have a fixed number of hours to deal with these estimates, our work as we review the administration of justice also is without end.

In conclusion, I would refer to a statement by an American educator, Robert Maynard Hutchins, in which he speaks of democracy in the administration of justice and therefore, to an extent, why the work of this committee is important. This is what he says:

"Democracy is the only form of government that is founded on the dignity of man, not the dignity of some men, or rich men, of educated men or of white men, but of all men"—that is, all members of society. "Its sanction is not the sanction of force but the sanction of human nature. Equality and justice, the two great distinguishing characteristics of democracy, follow inevitably from the conception of all men as rational and spiritual beings."

So I repeat, the administration of justice is the bedrock of our society. Lawyers are aware of that because of their background and experience. Members of the committee know it because of their involvement in public life as politicians, which I think is a pretty good word, who try to help their constituents.

The ongoing commitment of the Attorney General and his staff merits our approval and encouragement. We live in difficult times and the administration of justice is going to be seriously tested in these next few months as times become perhaps even more difficult for some members of our society. I wish the Attorney General and his senior officers well as they attempt to deal with those problems.

Mr. Renwick: Mr. Chairman, I welcome the opportunity to participate in these estimates on behalf of my party. I could not possibly begin my comments without paying a tribute to Allan Leal, who has left the office of Deputy Attorney General and is still retained by the government, thank goodness.

I think it is perhaps appropriate to share with you the curiosity I had about the number of things Allan Leal has done during the course of his career in the furtherance of the ends of justice in the practice of the legal profession and the duties of the courts in the province.

10:50 a.m.

I took the opportunity of looking up Who's Who to see what Allan had done in the course of his career and it is much too lengthy for me to read the whole of the biography. It would be edifying for every member of the committee to do so, simply because you have a man of immense capacity, immense indefatigable energy and immense commitment both to the public service, in the broad sense of that term, and to the best interests of the society. I have always been an admirer of his.

The basic high point of his career, of course, is that he was at the Osgoode Hall law school for some 16 years and of those 16 years he served eight years as dean of the law school. He was for 11 years chairman of the law reform commission of the province and I would think for about four years Deputy Attorney General of Ontario. A mere statement of some of the committees, delegations and organizations he has served on in itself would be extremely impressive. In the course of his whole career he has dedicated himself to the furtherance of justice.

I am delighted that the Attorney General (Mr. McMurtry) has indicated that he has accepted the position of vice-chairman of the law reform commission again, returning to that body of which he was a distinguished member and chairman for a long period of time.

I know the Attorney General accepts recommendations of mine only rarely, but I have a strange sense that it would be an immense boost in the status of the provincial courts if for the remaining years—and I am sure there will be many remaining years—of Allan Leal's service to the public, he would accept an appointment to the provincial court, particularly in the field of criminal justice in Ontario.

I am not asking that he be made the chief judge or saddled with administrative duties. I have long believed that there is a very real sense that the courts that are of immense importance—far and away more important than the Supreme Court of Ontario or the Supreme Court of Canada—in relationship to individuals in the society are the provincial courts.

While there are many very capable men who have been appointed to the courts, and the standard of those courts is high, I think they would be graced with the presence of Allan Leal. I know it would be a chore for him to accept such an appointment, but I think it would contribute greatly to the sense that the public would have about the importance of those courts because of the immense qualities and capacities he would bring to bear in such a field.

I am quite certain there would be no hesitation if he were to choose to be appointed to a higher court than that. My express request is that it would be an immense contribution which he could make if he were a member of the judiciary in the provincial courts in the criminal jurisdiction field.

I cannot help, of course, but return to comment about my old friend, Rendall Dick, who has come back to the Ministry of the Attorney General. Few of us realize that Rendall Dick has spent the whole of his career since he graduated from law in the public service of Ontario for some—I hate to say it—30 years now and that he became the Deputy Attorney General at about the same time I entered the Legislature. For the next 10 years my colleague, Patrick Lawlor, and myself had many fine discussions and communications with him in that capacity.

I personally welcome his return to this post. It seems rather strange but I do recall at the time of his appointment as Deputy Attorney General of Ontario in 1964 that there appeared an article referring to "the young mandarins." Rendall Dick was one of the young mandarins. Some of the others were Ian Macdonald, Donald Stevenson, Turk Bailey and there were a couple of others. It was a quite interesting article indicating how fortunate the public service of Ontario was to have such able, capable and then very young men in very senior positions in the administration of the public service of Ontario.

I need not say more about Rendall Dick because over the next months we will have an opportunity to become reacquainted. I am not so much interested in whether or not he brought any of the keys of the Treasury with him when he left that place.

Hon. Mr. McMurtry: I am.

Mr. Renwick: I know the Attorney General is. I listened with interest to his remarks. I am more interested in whether or not he brought any of the keys to the information retrieval and computer systems of the Treasury, because one of the abysmal lacks is not so much the question of whether crime is on the increase or whether crime is not on the increase, but the basic question of the extent and degree of the congestion in the courts.

This can only be assessed properly, in my view, if there is an in-depth statistical study indicating all of the questions with respect to the periods of time between, in the case of the criminal courts, the arrest of the person and the ultimate disposition in the court of that case,

which can readily be assessed in the various stages which it goes through in the courts and, in the case of the civil matters in all of the courts of Ontario, the time when the action was commenced or the claim was filed and the time when the matter was completed and disposed of and all of the intervening time lags.

I think until we have that kind of statistical information we are not going to be able to come to grips with the immense problem of the congestion in administration of the courts. The question of the administration is constantly referred to, usually in the addresses by the chief judges at the time of the opening of the courts. There is nothing that we in the opposition can do if the government will not listen to the chief judges in all of the courts in Ontario about the lack of facilities, about the problems of congestion, about the processes and procedures of the court and, as one concomitant of that, the need for additional dollars for the administration of justice when no one is going to listen. Certainly nothing I can say can add to it.

11 a.m.

I must say that from the time Rendall Dick became the Deputy Attorney General, which was shortly after the upheaval produced in the Ministry of the Attorney General by the introduction of the police bill which I missed in the Legislative Assembly in the spring of 1964, it was interesting that the relationship of the Attorney General to the Premier was a more distant one. Indeed, it was evident in the chamber that the Attorney General of Ontario had always sat beside the Premier or very close to him and was suddenly relegated to a very junior position a long way off. Arthur Wishart performed admirably in the role of keeping that ministry out of trouble for a long period, with the able assistance of Rendall Dick.

You, sir, and your predecessor, the then Honourable John Clement, did a lot to bring back into primacy the financial needs of this ministry. I am not suggesting for a moment that both you and your predecessor wield a certain amount of clout with respect to money matters. The strictures of the restraint program are telling on the administration of justice throughout the whole of its course, not just in the Ministry of the Attorney General but on the whole question of the police forces and through to all of the correctional systems that are going on.

I had not intended to dwell on that particular item, because I am sure it will come up at other times. On the matters I want to touch upon—and

I am going to comment briefly on some of them—I would really appreciate it if during these estimates at whatever the appropriate time is I could have some responses from the minister or his advisers on these questions.

The questions I have before me are not in any particular order, neither are they all necessarily of equal value, but all of them have a significant public interest content to them from my point of view.

The minister, I am sure, will be delighted to know that I am not going to talk about Confederation or the Confederation debate. I intend to take part in that sham debate which is going on in the assembly and which will resume on Friday morning and I will make there the statement I was unable to make two and a half weeks ago about my position on the proposed amendments to the constitution of Canada. Neither do I intend to speak about the correlative matter of the French language services in the courts of Ontario, although I am intrigued by the statement in the Attorney General's opening remarks that these are, and I think I quote correctly, not privileges but rights. Perhaps the minister would elucidate that comment at some point for me.

The next matter I would like you to consider, sir, concerns something you introduced into the assembly quite recently, last week: the amendment to the Highway Traffic Act for the purpose of legitimizing the reduce impaired driving everywhere—RIDE—program and for the purpose of providing for roadside suspensions of licences.

Would the Attorney General consider, for the members of the justice committee, having the two types of equipment used to conduct breathalyser tests available to us, with an expert instructor with the necessary liquid refreshment that would be required to test those machines? In this way, some members of the assembly would have some very real sense both about the technical adequacy and could also ask some questions, particularly with respect to the equipment that will be used for the roadside tests. I think that would go a great way towards helping us resolve the question of whether or not we should support the bill.

I may say that our caucus has not considered the bill as yet. My inclination is to recommend, as it happens to fall in my particular area, that we do support the bill. But I think that a physical demonstration of the equipment used and an opportunity to talk to experts in that field would be extremely helpful to members of this

committee—indeed, if other members of the assembly wanted to attend, that would be fine as well. To have us talk in a vacuum about that kind of roadside test seems to me to be quite inappropriate.

The next point, Mr. Minister—

Hon. Mr. McMurtry: For clarification, Mr. Renwick, I think it is a good suggestion and I would be happy to accede to it, as I do to many other suggestions of the distinguished member for Riverdale. Would you think this would be useful during the hours allotted for the committee deliberations, or on a separate occasion?

Mr. Renwick: I think in advance of the bill coming in for second reading. That would give us some sense of what we are being asked to approve in principle. I think the arguments in favour of it probably outweigh those against it, but I do think the public will be concerned and we as members of the assembly could do it before we actually vote on the principle.

I assume it would not take more than perhaps an hour of drinking and an hour of testing the machines, so that is about two hours.

Hon. Mr. McMurtry: Individually or collectively?

Mr. Gordon: Good stuff though, eh?

Mr. Renwick: If that were possible, I think it would be extremely helpful to our consideration of the matter as well.

The next question I want to raise is one that has concerned me for years. That is the question of the writs of assistance. Fortunately they fell into disuse but I am very much concerned the matter has come up again.

I am also very much concerned that with the matter again topical the writs of assistance, which of course are federal writs issued under federal statutes and so on, the implication is that somehow or other the judges of the court have something to do with them. I think it is extremely important that people understand that when the whole of the question of the writs of assistance was considered some years ago now, in what I believe was then the exchequer court, and it was Mr. Justice Jaccett who gave it, he went into what they were all about at great length and very clearly pointed out that the judges have no authority whatsoever except to issue those writs. They have absolutely no discretion.

I am disturbed that the Solicitor General of Canada would consider reactivating those writs. It is a matter which I suppose I raised in a still, small voice for years. I was extremely con-

cerned about them and I would appreciate it very much if the Attorney General, either now or on some other public occasion, would express his views with respect to the exercise in Ontario, by Royal Canadian Mounted Police officers and other customs and excise people, of those powers of search and seizure with no necessity to specify the use to which they are going to be put and with no need to go before any judge.

The writ of assistance, for those members who have not had occasion to run across it, simply means that an RCMP officer could be walking around with a writ anywhere up to 15 or 20 years old in his pocket, and that is the document under which he can enter any premises under any circumstances at any hour of the day or night. He does not have to justify it to any person, other than his own sense of duty as a police officer.

I want to come back at an appropriate time to the question of cases 28 and 29 and whatever other cases there are that relate to Ontario in the McDonald commission report. They are actually referred to as detailed summaries. Detailed summary 28, I believe, is the Praxis matter. Detailed summary 29 is Operation Checkmate. The minister made long statements and issued the correspondence which he had about Checkmate some time ago.

11:10 a.m.

I do want to come back to that aspect of it and I am sure the minister would like to make some comments as well about those questions. I am very interested in those cases. I do not want to go into all of the details of them so much as to make certain that we understand where we now are in relation to those detailed summaries and any other of the incidents which are reported in the McDonald commission which may have taken place in Ontario and the position of the Attorney General on those questions.

The next matter which I want to ask the Attorney General to bring us up to date on is the state of the trials of, I believe, the 266 persons who were charged as found-ins in the raids on the bathhouses in Toronto earlier this year. I can be wrong on the figures but the figures as I understand them was there were a total of 286 arrests, 20 persons were charged with keeping a common bawdy house and I believe the other 266 were charged as found-ins.

The point of my comment is not the controversy surrounding the police raids. This is not the appropriate place to deal with it. I have taken the position that until the disposition of

the criminal charges in relation to the keeping of the common bawdy houses are disposed of the question of the adequacy or the appropriateness of the police response should not be raised and I am not raising it at this time.

I am making this particular plea to the Attorney General. I am asking him, in the exercise of the discretion he has, to consider not proceeding with the charges against the 266 persons who were found in. I do so because I am indebted to the Attorney General for his statement on February 23, 1978, about his duty as Attorney General of the province in the question of whether or not he should proceed. I do not intend to refer to any of the names in that case, it is past history. I do want to refer to the principles which are involved in it and I want to quote his statement. These are your own words, sir.

"Henry Bull, the late crown attorney for York county, and indeed a very highly respected prosecutor for many years, once wrote that the crown's duty in deciding whether a prosecution is justified is twofold. The first duty is to determine whether a criminal offence is disclosed by the facts in the sense that a *prima facie* case is made out. The second duty is then to determine whether a prosecution would be justified in a particular case.

"This exercise of judgement was best put by two Attorneys General of England, Sir John Simon and Sir Hartley Shawcross, both speaking in the House of Commons. I quote: 'There is no greater nonsense talked about the Attorney General's duty than the suggestion that in all cases the Attorney General ought to prosecute merely because he thinks there is what lawyers call "a case." It is not true and no one who has held the office supposes that it is.'

"Sir Hartley Shawcross supported Sir John Simon's position: 'It has never been the rule in this country . . . that suspected criminal offences must automatically be the subject of prosecution . . . The public interest . . . is the dominant consideration.'

"Sir Hartley outlined how he directed himself in deciding whether or not to prosecute in a particular case. I quote: 'The Attorney General may have to have regard to a wide variety of considerations, all of them leading to the final question: Would a prosecution be in the public interest, including in that phrase, of course, in the interests of justice?' [In] the ordinary case . . . one . . . has to review the evidence, to consider whether the evidence goes beyond mere suspicion and is sufficient to justify a man being put on trial for a specific criminal offence.

"In other cases, wider considerations than that are involved. It is not always in the public interest to go through the whole process of the criminal law if, at the end of the day, perhaps because of mitigating circumstances, perhaps because of what the defendant has already suffered, only a nominal penalty is likely to be imposed.

"Mr. Speaker,"—and again I reiterate, I am quoting your words in the Legislature here—"I would stress that not merely is this the law of Canada as well as England, but that it also reflects very accurately the responsibilities of the Attorney General of Ontario, certainly as I have experienced them during the last two and a half years."

I need not go on to state everything you have said, but I could pick it up further on down in your remarks. "My decision stands for the proposition that crown law officers, in deciding whether a prosecution should be launched or should proceed, must be scrupulous to treat all members of the community equally without any regard to their position."

Further on in the matter, having returned to the particular incident that he was addressing his remarks to at the time, the Attorney General goes on to say: "Moreover, the case could not be tried without making public the identity of the family involved... To reveal the... identity would cause irreparable harm to all those directly involved. The embarrassment and anguish to innocent parties must be weighed against any possible advantage that might result from bringing criminal charges"—et cetera.

"Let me, in conclusion, reiterate what I have stated. Every day police officers and crown attorneys decide not to prosecute potential accused. On many occasions charges are not laid, even though the police and the crown would be fully justified in proceeding to prosecute. It is not, therefore, a question of whether the individual is rich or poor, prominent or not. Rather, it is a question of whether proceedings are appropriate, taking into account the public interest and the fair administration of justice."

It does seem to me, sir, in the light of those comments of yours—for which I am indebted to you and with which I am in agreement and which have been quoted elsewhere with approbation as an appropriate statement—that in the case of the found-ins in the bathhouse raids, my first point would be that those persons are going to await trial for a long period of time. In other words, it is my understanding that those charges may not proceed until the basic charge of the

question of whether or not a conviction can be registered that the premises were a bawdy house and the original charges are disposed of.

If the previous case is any indication—and I forget the exact details of it; I believe Mr. Morris Manning acted in the case—it was at least a good two years before that case was ultimately disposed of. I am not absolutely certain whether an appeal was ever taken against it. So I suggest that as one of the important circumstances.

I suggest the second question is that the individuals who were found in—I do not happen to know any of them, but I assume with that number of persons, they come from all walks of life—there could be considerable damage not only to them individually, in their areas of employment or in the field of their personal endeavours, but it may very well bring anguish and hardship on members of the families of the persons who were found in.

11:20 a.m.

I cannot conceive that any real interest of justice would be served by proceeding with all of those charges. I want to clearly distinguish that I am not speaking at all about the proposition that the raids were made because the police obviously believed, on reasonable and probable grounds, that the bathhouses were being operated as bawdy houses. Those matters will await the trial of those charges. That is the important issue to be decided and that is the one where the attention should be focused.

I would ask that Mr. Minister would review that matter in the light of his statement, which I have quoted at some length, and in the light of the circumstances of his duty and responsibility as Attorney General in that area.

The next matter I wanted to comment about: I have not been able to reach Mr. Walter Dubinsky, but he acted at the time for those members of the International Woodworkers of America who were ultimately charged; the charges may not have been disposed of.

My question is a very simple one. After a considerable period, and then there was a police investigation, the decision was made to lay charges. In the particular case, the police went out and arrested at various locations in northern Ontario the people who were charged, brought them into Thunder Bay and then the charges were laid at that time; and the persons were released on bail.

I have never been able to understand, in those circumstances of individuals who all lived in the community and were working in the commu-

nity—and it was many months after the incidents occurred because of the length of the investigation—why they were not summonsed rather than arrested, in some cases at their place of work; in other words, taken to Thunder Bay, charged and then released.

I had intended some time ago to get the information from Mr. Dubinsky of at least one or two examples. When I was in northwestern Ontario I did speak to a couple of the men who were involved. One of them was arrested, for example, at work, brought to Thunder Bay, processed and then released on his own recognizance. It seemed to me to be quite inappropriate.

My next comment, Mr. Attorney, is with the continuing interest in the forlorn hope that the young offenders act will at some point be dealt with in the House of Commons in Ottawa. It has very significant impingements on the provincial administration of justice and very real obligations, very real close relationships to it. I have raised this matter on occasion helpfully with the Provincial Secretary for Justice (Mr. Walker). I have had some discussions with him about it.

I happened to run across in a recent publication a most interesting comparison of the Juvenile Delinquents Act and the proposed young offenders act. In a very synoptic way it is probably the best I have seen. I took the liberty of making a copy for you. I do not pretend to know what the appropriate forum would be to discuss that matter, but I would hope that at some point there would be an opportunity for us to discuss it, even though the bill will never come before this particular assembly.

It raises some very fascinating points, not the least of which is that the attempt to change the present Juvenile Delinquents Act and to introduce a new act has made no progress for, what, 15 years?

Hon. Mr. McMurtry: Almost.

Mr. Renwick: Over the period of time.

This is a particularly interesting comparison. It is very intelligible. I think it would be very helpful. I believe it is up to date. I am not absolutely certain about that.

My next comment is that I do not know what has happened to any proposal to revise the Sale of Goods Act and the consumers' warranties and guarantees. That has disappeared, as has the basic question of consumer protection, I guess, but the Ontario Law Reform Commission produced voluminous and very good reports on those matters. I had thought that was a project that would have proceeded at some time and

that we would have in Ontario a modern Sale of Goods Act and a modern act providing for consumer warranties and guarantees.

Mr. Chairman, let me know when I have to stop because there are any number of items. I do not necessarily need to comment on all of them, I can just run through them quickly. But I do want responses to them.

Mr. Chairman: We had agreed to finish vote 1401 today.

Mr. Renwick: I do not want to take up all of the time. I did not ask for the change just in order to have a longer time to make a statement. Cut me off when you think it is appropriate.

Mr. Chairman: I would not presume to cut you off. Perhaps you could keep in mind that at one o'clock, we have to be through the entire vote 1401.

Mr. Renwick: I will try to complete my remarks in another 10 minutes.

We have before us in the assembly the Children's Law Reform Act in which Allan Leal played an important part in the question of international obligations with respect to child abduction. That bill will specifically provide the legislative sanction to make the treaty in that regard part of the law of Ontario.

Over the months and years that I have been aware of the problem I cannot understand why Ontario has not taken some legislative action with respect to the obligations imposed by its acquiescence with the international covenants on economic, social and cultural rights and the international covenants on civil and political rights. I do not understand why legislative sanction has not been enacted in Ontario to eliminate any question that those matters are important here.

I may say there are other covenants that fall in the same category. One, which I will refer to briefly later on, is the series of covenants and international treaties to take broadly based action against racial discrimination, such as the international convention in 1965 on the elimination of all forms of racial discrimination. Canada is a signatory to them. The terms and conditions are that the constituent parts of Canada, the provinces, are bound and yet we have not seen any legislative support for that. It quite obviously is required.

I am indebted to Mr. Leal. I happened to be present when he gave an address on the question of the way in which international covenants become part of the law of Ontario and I quote from the paper wherein he referred

to the traditional labour convention cases and so on that "Only provincial Legislatures may give international covenants the force of law within those areas that fall under provincial legislative jurisdiction."

I think it is extremely important that we clarify what the Ontario position is, bearing in mind that the government of Ontario, as such, is co-operating with the federal government in order that the federal government can file with the United Nations Human Rights Commission the report which the international covenant requires it to file.

11:30 a.m.

The next point I would like to move to: I was deeply concerned to read in the *Toronto Star*, the ombudsman's comment—not the Ombudsman of Ontario but the newspaper ombudsman who comments about the appropriateness and ethics of what the newspaper is doing in certain matters. It was a question of the unfortunate former member of the provincial judiciary who has fallen on hard times and was up in court on a charge recently.

The newspaper followed the man to his residence, tried to interview him, were unable to get an interview or if they did get it, it was quite inappropriate, and then the photographer for the *Star* photographed the man from across the street with a telephoto lens. The picture was published in the first three editions of the paper, then the editor withdrew it from publication.

The picture was taken from across the street with a telescopic lens showing this man in the hotel room where he now lives in shabby circumstances. It raised very serious ethical questions within the *Star*, both with respect to the editors on the matter and with respect to the photographer who took the picture, who was very much concerned about what he had been asked to do.

The comment of the ombudsman for the *Star* was in last Saturday's *Star*, I believe—it was certainly in the weekend newspapers. There was a reference to the fact that in British Columbia—I am not necessarily saying that the law would have prevented it—they do have a right to privacy act. I have not had an opportunity to study it, but it is chapter 336 of the Statutes of British Columbia, which is called the Privacy Act and provides for an action in the case of violation of privacy, the indication being that that kind of activity would have fallen within the scope of this bill.

Hon. Mr. McMurtry: Do you have a copy of that I could read?

Mr. Renwick: Yes, I do, you can have this one. I can get another copy of it.

This happened to be a very poignant case. I think as well it is often that kind of case which illustrates the need for some kind of attention by the minister. I would appreciate, not necessarily during these estimates, some comment about that kind of question as it came up.

Let me move along somewhat more quickly. As the Attorney General knows, for a long time the Ku Klux Klan has been a matter of concern to me, as it has been for him. I happen to have obtained this report arising out of the activities of the Ku Klux Klan in British Columbia as presented to Hon. J. H. Heinrich, Minister of Labour for the province of British Columbia, by John D. McAlpine, which subsequently ended up in some form of legislation.

I appreciate all of the problems involved in attempting to deal with it, but I would ask, if the ministry has not had an opportunity to examine this, to see whether or not there is some kind of appropriate action that could be taken from a legal point of view without infringing the right of freedom of speech and the other rights that are so important in our democratic society. I do not know whether you have seen this or not.

Hon. Mr. McMurtry: The BC legislation?

Mr. Renwick: The actual report. You can have this just for some light reading. It is an interesting report because, of course, the Ku Klux Klan has attempted to establish a foothold in British Columbia.

It raises a serious concern for me and if it is at all possible in some way, without infringing the basic freedoms that we are all so very much concerned about and which the Attorney General has alluded to on all of the occasions that the problem comes up, perhaps we could look at what has been done in British Columbia. I understand legislation was enacted as a result of that report. I do not know whether it is similar to what we already have in Ontario, or whether there is some value to be gained by a close perusal of that report.

I have commented, Mr. Attorney, in my opening remarks about the congestion question in the court and the need for statistical information. The next item is I would like to know whether or not there is any method within either the ministry or elsewhere in the government, by which it would be possible to get information about how many mortgages, household mortgages in particular, are in process in the courts for foreclosure.

I do not know whether that kind of information is available, but if it is available I would certainly like to know whether it can be

obtained and how it could be obtained on a statistical basis or by region of the province or by particular municipalities. I do not know whether it is possible to do so.

Mr. Breithaupt: This is in respect to writs only. There would not be anything under power of sale or of arrears that are being considered.

Mr. Renwick: No, that is a continuing problem. Where the mortgagee chooses to proceed by way of power of sale privately is a different question.

Mr. Chairman: Just an interjection: I believe that nowadays few mortgagees, and it is a decreasing number, are going by foreclosure. They are going by the power of sale. They reverted to a 20-year-old practice because of the notice DOR.

Mr. Renwick: I recognize that it would not and my inquiry was to lead to the requirement that where a mortgagee intended to take action under the power of sale, that he should be required to give some notification when he gives notice of his intention under it to file a notice of intention to proceed by way of notice of sale with the Attorney General.

I am perhaps old-fashioned and I was always warned that there were too many hazards in going by way of power of sale and you should go by foreclosure if you wanted to do it. But I gather times have changed and it is much simpler to go by power of sale.

Mr. Chairman: The pendulum has now swung back again, that is really what has happened.

Mr. Renwick: My next question, Mr. Attorney General, is to be brought up to date in connection with the Argosy group of companies.

You wrote to me on August 27 saying that after the matter had been referred by the Minister of Consumer and Commercial Relations to you: "At the present time I am satisfied the Ontario Provincial Police in conjunction with the crown law office and supported by the continuing assistance of personnel from the OSC are working as expeditiously as possible to bring this difficult matter to a conclusion. When the investigation has been concluded I will advise you of the results."

I would appreciate it if you would let us have a progress report on that question.

The Dan Hill study: I know that you replied to our colleague, John Sweeney, in the assembly, I think in July of this year, right in the dying days of the assembly, that no action was contemplated by your ministry. After that Dan Hill

study about cults, I would perhaps like an explanation, a somewhat more enlarged statement, rather than the laconic reply you gave on that issue, because it will be a continuing and recurring problem I am certain.

11:40 a.m.

If I may move to the next point, I am particularly anxious that you bring me and the members of the committee totally up to date with respect to the activities of persons alleged to be members of the Ku Klux Klan or its predecessors in Ontario and that, if it were not so tragic, what one would have considered a kind of comic opera operation against the Dominican Republic.

I know it is a matter of immense concern and remains a matter of immense concern to me as to whether or not it is possible, somehow or other, that if any offences were committed in Canada relating to that activity abroad, I would like to have a full and complete report made to the committee with respect to it. I collected most of the clippings at the time it was happening, but actually the story by Judy Stoffman—oh, my gracious, I do not have the date of it—in *Today Magazine* not so very long ago, "The Pups of War," appeared to me to be a pretty accurate résumé of all the events leading up to it.

I may say that the newspaper in Toronto, *Contrast*, published an editorial on October 23 of this year referring, sir, to you, in your capacity as Attorney General and raising what was of concern to them. The editorial is entitled, "Some Interesting Questions."

There was a report in the *Globe and Mail* on November 2 quoting you, sir, that: "Last May Attorney General Roy McMurtry ordered a top priority investigation into the mobsters' link to the Klan and the involvement of Canadians in the Dominican plot. The Ontario Provincial Police completed an investigation during the summer and recommended that charges be laid in Canada. The Attorney General's ministry is still reviewing the police file."

"The Criminal Code makes it an offence to conspire in Canada to do something in another country that is against the laws of that country. The section carries a penalty of up to two years in prison."

I am anxious to have your comment about that matter.

I would like to know whether or not your decision—which I was pleased that you took, which seemed to support the position which I

had taken—that you were going to proceed to appeal the fine against K-Mart has proceeded or what the state of that is in the courts.

The last but one comment, and I guess one could go on forever with matters of intrigue and interest in your ministry. I read with interest the judgement of the Court of Appeal of Ontario of *Regina versus Saxell*. The question of confinement under the Lieutenant Governor's warrant in Ontario was exhaustively reviewed where counsel appeared both on behalf of the person who was detained under the Lieutenant Governor's warrant and where the Canadian Civil Liberties Association was also represented on the case.

I would appreciate it if at some point you would bring me up to date as to whether you are satisfied with or are concerned about the process by which the position of persons detained is subject to review under the appropriate provisions of our Mental Health Act. I am most anxious to be satisfied that that is fair and due process, that it is appropriate and properly carried out in the best possible way, having regard to the unusual circumstances in which those particular persons find themselves.

My last comment, sir, is with respect to the hospital workers and your particular role related to them. I have not had an opportunity to check the Quebec case that is referred to, but I commend it to your consideration. I have a quotation from the report, but not the actual report itself. I will, however, try to get it.

The situation is that Chief Justice Jules Deschênes of the superior court of Quebec refused in 1974 to find 100 striking transit workers in Quebec in contempt of court. The workers were engaged in an illegal strike and had refused to obey a lower court injunction ordering them back to work. Judge Deschênes reviewed the circumstances of it. The following is his judgement as quoted. As I said, I will check its accuracy.

"The political power does not have the right to lead the judicial power to rule on social conflicts within the unsatisfactory framework of our present laws. It does not have the right to unload on the judicial powers political obligations and leave the solution of these disputes solely to the extreme weapon of contempt.

"Until the political authority finds solutions appropriate to these social conflicts I am of the opinion that the superior court must not lend its authority to the crushing of a mass of citizens by fines and imprisonment. Under the prevailing circumstances the court, which must always

make use of its repressive power with circumspection, must not collaborate with an action bound in advance to fail and unsuitable for resolving a dispute which has for some time now been a matter for the political authority."

I would appreciate the Attorney General's comments on the actual comments by Judge Deschênes in that particular matter.

Mr. Chairman, I appreciate your forbearance. I have gone on at some length, but those are some of the matters which have been of concern to me. The reason I had specifically asked for the extra time on the first vote was that I had asked my colleague, Mr. Mackenzie, if he would be able to attend this morning. I had hoped that at an appropriate time he could raise with you, sir, a matter which you know is of immense concern to him.

Hon. Mr. McMurtry: Thank you, Mr. Chairman. I would like to comment briefly, if I may, on some of the very interesting remarks that have been made by the two justice critics. Obviously some of the remarks and questions will require follow-up by us in order that we might obtain an up-to-date status report. We will therefore go back to some of them later on during the course of the estimates.

Dealing first of all with Mr. Breithaupt's comments, I appreciate his generous remarks in respect to any positive initiatives that have been taken by the Ministry of the Attorney General during six years of my responsibility. I certainly share his concerns with respect to most of the issues he has raised, whether they be in relation to what we can fear as a result of increased economic stress, in relation to compensation of victims of crime or our ongoing concerns with police chases.

I have said on a number of occasions that we are not prepared to ban police chases. However, we do recognize that police must be encouraged to exercise their discretion in this area very carefully.

So far as the freedom of information proposals are concerned, I can say that cabinet has made no decision with respect to the form of the legislation.

11:50 a.m.

As I understand Mr. Sterling's remarks, he has made it very clear that there should be an independent freedom of information commissioner review concerning any decisions not to release information. I think Mr. Sterling may have suggested the Ombudsman's office might be the appropriate independent monitoring

agency. The issue to be determined by cabinet is as to whether or not a decision of the Ombudsman should be further appealed to the courts or whether it would be binding on an individual minister.

In so far as what Mr. Sterling has stated is concerned, from discussions I have had with him I think he certainly is expressing pretty frankly his own view as to cabinet accountability in the context. If there were a recommendation by the Ombudsman to a particular minister to release information and the minister was not going to accept the recommendation, then the cabinet as a whole would have to take that responsibility. I think that process has some real potential, because of course the cabinet as a whole then would have to take the responsibility for any reluctance of an individual minister to accept the recommendation of the Ombudsman.

While this might not be as satisfactory in your mind or in the view of others so far as an appeal to the courts is concerned, I think the very fact there is a recommendation of the Ombudsman the political accountability would create a fairly high degree of discipline in relation to the cabinet responding to what the Ombudsman has said is in the public interest.

Again, it deals with the fundamental issue as to where the accountability should lie, within the political process or in the courts. I am sure this is going to continue to be the subject matter of some debate, but it is important that the members of the committee appreciate that Mr. Sterling has certainly contemplated an independent review.

Certainly the function of the Ombudsman's office seems to be pretty effective. We do not hear a great deal about the office in the media but certainly it has been quite effective in assisting many citizens in their dealings with government bureaucracy. I think the role of that office with respect to freedom of information could be very important, particularly in view of the fact they have developed a fair degree of expertise in dealing with government bureaucracy since 1975.

I shall not reflect further on the controversial relation to my two portfolios, or speculate as to how long that situation will continue. I appreciate Mr. Breithaupt's remarks. He could find no example of conflict and I do not think there ever would be a conflict because the responsibility of the senior officer of the crown is to the law and to the law alone. Combined with this are

obvious public interest considerations such as Mr. Renwick touched upon in relation to prosecutorial discretion.

I worry that there may be a perception of a conflict and obviously as long as there is a danger of a perception of a conflict, that is a matter that has to be of some concern.

The fact that eight provinces have, in their wisdom, decided to continue to retain the functions of the two offices, or the responsibility for the police, at least, and the administration of justice under one ministry, perhaps supports the wisdom of Mr. Renwick in 1972 when he suggested that the accountability of the Attorney General of the province required that he accept the responsibility for police actions.

In so far as legal aid is concerned, it troubles me that we do not see more support for the legal aid program, not only in the broader community but in the legal community. It is a matter that has been of great concern to me in the past six years and I shall be saying something more about it publicly when I have dinner with the area directors tomorrow night and when I attend the tenth anniversary dinner of the Parkdale Legal Aid Clinic on the weekend.

One of my concerns is that there is not more support for the legal aid program within the profession itself, that the support seems to be largely restricted to lawyers who practise in the courts. There is probably more support for the program outside of Toronto than there is within Metropolitan Toronto, in my experience. It may be simply because the bar associations are—

Mr. Breithaupt: More homogeneous.

Hon. Mr. McMurtry: —more homogeneous groups, which is not possible with the enormous number of lawyers who practise in Metropolitan Toronto.

I regret that there is not more vocal support for their program among the profession generally, because I happen to believe it is a very important program. While I know that some of the central agencies of government fret from day to day about the open-ended nature of the program and we are forever receiving suggestions as to how we might somehow restrict that open-ended nature, some of our friends with the best intentions and best motives do not seem to understand that the justice system is open-ended. No one can control how many cases are going to be injected into the courts at any given time.

My own view is that the amount spent on legal aid is relatively small, considering what the

program has accomplished since 1968. We do enjoy a high degree of orderliness and civility in this province and this is the result of many factors, also related to the psyche of the individual Ontarian, I suppose. Certainly I happen to believe that the legal aid system has made a significant contribution to maintaining an orderly and civil society when people are given access to legal assistance and I shall continue to speak strongly in support of the legal aid program.

I am mindful of the fact that when I became Attorney General there were only four or five legal aid clinics functioning and most of them were facing severe financial difficulties. I am happy to note today that there are approximately 35 legal aid clinics in the province, functioning effectively and on a relatively strong financial footing.

I really do think they provide an important service of a different type than can be provided by the ordinary law office and that they do complement the traditional law office in a very significant fashion when it comes to dealing with many of the problems of the community, particularly those related to problems of the disadvantaged.

12 noon

I agree with Mr. Breithaupt when he states that the tariff is low—this, of course, is obviously a contentious issue—and there probably is some merit in any suggestion to increase the tariff. Certainly, I think most lawyers who participate in the legal aid program do so for fees that are not commensurate with what they receive in non legal aid cases and I think they do make a very important contribution to the community by their participation in the legal aid program.

I agree with the Krever commission with respect to the confidentiality of medical records. I think it is incumbent upon the government to move this along and to demonstrate some legislative response to some of the issues that are raised in the Krever commission.

As the members know, this touches on more than one ministry. In so far as the Ministry of the Attorney General is concerned it also does reflect some of our own problems, quite frankly, with resources. The number of initiatives we have ongoing in the ministry at any one time in relation to our relatively small complement of policy people does demonstrate that we are certainly underfunded in that area as well as many other areas.

The Ministry of the Attorney General does

have some involvement in the Residential Tenancy Commission and membership on the board and we do agree that we do have a responsibility to monitor the activities of that commission as it relates to the ability of the commission to function effectively in dealing with matters that come before it, particularly in attempting to shorten the delays that are presently occurring. I have no hesitation in stating it is a matter of some concern to us.

Mr. Renwick has raised a number of important matters and a number of questions. The information in relation to my response will be forthcoming over the next several days, but I will touch on some of the issues he raised.

I certainly agree with his suggestion that the Ministry of the Attorney General does have a very pressing need for a much better information base as far as the need for information retrieval goes and I do not believe we are going to function as effectively as we can until we have that information retrieval system and that degree of computerization of our information. Certainly it again reflects our problems with respect to the need for additional resources generally.

I am not sure that I totally understand Mr. Renwick's question in respect to my comment made in the Legislature a week or so ago in relation to the French language in the courts. When I stated that we were providing French-language services, the French-language capacity was described by me, as Mr. Renwick has accurately quoted, not as a privilege but as a right.

I happen to believe that the ability of our Franco-Ontarian or French-speaking citizens in Ontario to express themselves in the French language and be understood in the French language in our courts is a very fundamental right. It certainly reflects the duality of our nation. When we are talking about something as fundamental as the administration of justice, notwithstanding the best possible translation services, the right to have one's evidence heard by a judge or jury in their first language is, in my view, a right that should be afforded all of our French-speaking citizens. That is the path on which we have embarked.

I think my statement indicated we now have a full range of court services for approximately 83 per cent of our Franco-Ontarian population which obviously indicates we have accomplished a good deal in the last five years, but we still have some distance to go. We are going to continue to proceed down this path because I

happen to believe that when it comes to the administration of justice in particular, these language rights are of fundamental importance.

I have already stated that I am very happy to try and set up a session in relation to the recent amendments introduced to the Highway Traffic Act, particularly as they relate to roadside breathalyser tests, which should provide an interesting occasion for the members of this committee who would like to participate in such an experimentation in the public interest. The Deputy Attorney General I know would be very pleased to perform as a bartender on that occasion.

Mr. Dick: All for the Treasurer's revenues.

Mr. Renwick: All in the interests of science.

Hon. Mr. McMurtry: Mr. Renwick has also raised the very important and contentious issue of federal writs of assistance and while they are not within the jurisdiction of a provincial Attorney General or Solicitor General, I must say that I harbour a great deal of personal scepticism about the need for such writs of assistance. I have no difficulty, quite frankly, in stating that in my view they are not necessary and should not be thought of as necessary in matters such as customs and excise.

The issue in relation to drugs has caused me a little bit more of a problem because of the increasing drug traffic that is taking place in Canada and the serious social problems that have been caused as a result of this, quite apart from the criminal activity that is, unfortunately, engaged in by a large number of people in this country.

Notwithstanding the seriousness of this problem I am not convinced at this time that the police have made out an adequate case for writs of assistance. This may not make me totally popular with some of our crown prosecutors but that is not my concern. I think I share most of Mr. Renwick's concerns in this area.

On the McDonald commission, I will obtain an update for the members of the committee with respect to whether our review has been completed and whether there is any additional relevant information that may be forthcoming in relation to Praxis and Checkmate. I have some information but I would like to make sure that it is up to date.

I might say that the attorneys general of this country are meeting in Ottawa next week and for that reason I will not be available next Wednesday morning, as you know, Mr. Chairman. Certainly the McDonald commission has

been given a very high priority by all attorneys general and there is a very significant review with respect to the recommendations in general having been undertaken by our senior law officers. I expect the recommendations of the McDonald commission will continue to occupy a great deal of the time of the individual attorney general and the attorneys general working collectively in the months ahead.

12:10 p.m.

So far as the bathhouse raids are concerned I appreciate again the remarks of Mr. Renwick in relation to prosecutorial discretion. I will obtain for him the actual status of the trial dates of those who have been charged with keeping a common bawdy house. I am just not sure, at this point in time. I agree that there are factors, particularly in relation to some of the delays, that are proper factors to be considered in the exercise of prosecutorial discretion but I will be able to get an update in so far as the trial dates are concerned.

Similarly, I will try and obtain some information with respect to the matters raised in relation to the International Woodworkers and those charges which were laid in the Thunder Bay area and attempt to find out why it was decided by the police to go by way of arrest as opposed to proceeding by summons.

The young offenders legislation, which Mr. Renwick points out has been almost 15 years in the making, again will be the subject matter of the attorneys general conference in Ottawa next week. I know there is a committee of officials involving the Ministry of the Attorney General and the Ministry of Community and Social Services.

Obviously the provincial response is going to be important because we are going to require some provincial legislation in view of the fact that the young offenders proposals will not deal with provincial offences. We believe that the proposed federal legislation they expect to pass at this session will not actually become law before 1983, but there is no question that the proposals do have a very significant impact on the justice system in Ontario.

The Sale of Goods Act in the Ontario Law Reform Commission report of course also involves the Ministry of Consumer and Commercial Relations. It is a very detailed report and a very important report and before the conclusion of the estimates we will try to have some idea as to just when we might have some specific response to this very comprehensive report.

The comments made by Mr. Renwick with respect to any legislative response in Ontario to international covenants to which Canada is a party is an important issue. I think the position we have taken generally is that we already have in place legislation dealing with the majority of these undertakings.

I would be interested in any further comments by Mr. Renwick in relation to what he believes to be necessary in respect to racial discrimination, over and above what is presently before the Legislature in so far as Bill 7 is concerned, as well as the existing human rights code. I will be very happy to entertain any suggestions in that regard.

I certainly agree that the Toronto Star's treatment of the former judge who has fallen on difficult times was certainly in very poor taste, to put my views in the mildest form. I think it was really a shocking exercise of bad judgement, quite frankly.

I will most certainly take a look at the BC right to privacy act. I am not sure that the freedom of information proposals also involved the right to privacy and this has to be part of our response as far as the Williams report is concerned.

The right to privacy is a very complex subject. I do not want to be misinterpreted when I relate to the members of the committee, Mr. Chairman, a rather unhappy case I was involved in as a lawyer. It did have, I suppose, some amusing overtones but really was a rather sad case.

It involved a well-to-do businessman who had some photographs of his former mistress that had been taken with her consent. They both had been drinking and most of her clothes had been removed. Then in a very vindictive, malicious act when she left him, he had them made up into a Christmas card and sent them to all their friends. I was distressed; I was retained to act on her behalf. Actually we did work out a very substantial financial settlement for her before trial.

It was the first time I really appreciated that our right to privacy law was really quite inadequate. Although this does not quite touch on the problem that was raised by Mr. Renwick, certainly my legal research at that time indicated that the legal sanctions available to that individual were somewhat questionable.

So far as the KKK is concerned, we continue to monitor their activities in Ontario. As I reviewed the BC legislation, I recall it basically dealt with hate propaganda. I think it will probably be challenged on the basis of constitu-

tionality inasmuch as it appears to deal with matters presently within the jurisdiction of the federal Criminal Code. I continue to be assured by our police forces that the KKK in Ontario represents a very small group of misfits, most of whom had some association with the Western Guard prior to that organization's relative demise.

One of the distressing aspects of this whole issue, of course, is that one does not know just how much publicity is appropriate, because obviously it is an organization that thrives on publicity. There have been articles written about how they manipulate the media. Some of the police reports I have received, for example, would indicate that some of the former Western Guard people started a chapter of the KKK in Toronto almost as a joke and then, once they saw people were taking them seriously, became a little more serious about attracting this sort of publicity and engaging in this type of activity, their own sick mind bent being consistent with the traditions of the KKK.

12:20 p.m.

I am assured that fortunately they have made very little impact so far as active recruiting is concerned, but, of course, they do represent a perceived threat to many of our citizens. It is very distressing to many of our citizens that an organization even be allowed to exist under that name. I think all the members appreciate the difficulties of trying to ban any organization as opposed to prosecuting them for illegal activities.

Mr. Chairman: Mr. Minister, might I interrupt you at that point?

Hon. Mr. McMurtry: I am sorry, I forgot about the one o'clock deadline for vote 1401.

Mr. Chairman: It is okay. I have contacted each member and people would like about 30 minutes. So I am just asking, could you perhaps finish this in about nine minutes and that means everyone will have had their desired time by one o'clock? I am just letting you know there is a little bit of a time limit.

Hon. Mr. McMurtry: Perhaps we can come back to some of these other issues later on: mortgages, Argosy, the Dan Hill study, the ongoing investigation with the KKK concerning the attempted coup in Dominica. I might say one of the problems, Mr. Renwick, is the OPP investigation was never really complete, so there were some press reports that perhaps created the wrong perception.

The K-Mart appeal, Metro health legislation

and the hospital workers I will come back to later on if you like, so we might allow other members to participate in the time remaining, Mr. Chairman.

Mr. Elston: I have a couple of brief comments, because I know others are interested. I am particularly interested in the policy development section of the ministry and I have some general questions on it. I wonder where they meet, when they meet and what sort of review process goes into this whole process of policy development. That is of particular interest to people in relation to matters surrounding the Children's Law Reform Act, race relations and the problem of one of my constituents with the Family Law Reform Act.

I wonder if you could address some brief and general comments, first of all, on that policy development element.

Hon. Mr. McMurtry: With respect to?

Mr. Elston: First of all, where, what and how are their decisions reviewed?

Hon. Mr. McMurtry: Policy development occurs in a number of ways. Obviously, much of the policy development is the result of the very important activities of the Ontario Law Reform Commission whose very distinguished chairman, Dr. Mendes da Costa, is with us at this moment.

We have received a large number of reports. I have often said that I think there is no more active law reform commission in the world. Its record probably is second to none. The commissioners have provided an enormous amount of work for our policy development division, trying to keep up with their very excellent reports. Over the years the number of the reports that have been reflected in legislation is very considerable. That is a major source of work for the policy development branch.

There are a number of other people, including the minister, who bring issues to the policy development branch and we keep them pretty busy in that respect. It might involve any issue relating to law that I feel they should take a look at. One of our problems, quite frankly, is that we sorely need additional human resources in that area, because when one looks at the work load being carried by the policy development division of the Ministry of the Attorney General and the actual number of people who are involved in it, the load really is very significant.

We have at the present time, for example, people working very hard on the development of the new mechanic's lien legislation, which

will be entitled construction lien legislation. This is a major project that is ongoing at the moment. That is just one of the number of projects that we have which are ongoing. The last time I counted they were working on about 34 fairly significant projects.

I have always felt that if an individual member of the Legislature came to me, as members often do, with a proposal with respect to possible new legislation or amendments to old legislation, often these matters are referred to the policy development division for research and comment. In that respect, we do attempt, to the extent our resources are able, to assist the members of the Legislature as a whole in some of these issues, or to better appreciate some of the issues that are regarded to be of importance.

I do not know whether that is a satisfactory answer.

Mr. Elston: That is part of it, I suppose. Is there sort of a regular meeting place or is there an agenda available, for instance, for people who may be interested in making comments to them on specific matters?

Hon. Mr. McMurtry: No.

Mr. Elston: So there is really a—

Hon. Mr. McMurtry: That would be done through me, or individual members may want to approach the deputy minister or others.

For example, people like Mr. Renwick or Mr. Breithaupt, who have been here for some years, have always had I think a pretty good relationship with the Deputy Attorney General, and hopefully with the Attorney General as well, and do not hesitate to call the Deputy Attorney General if they have a particular issue of interest to them. We have always encouraged that interaction.

There are no formal meetings at which people come forward. If there is a matter of interest that you or members of the public feel should be taken up by the Ministry of the Attorney General, it is generally done through the minister's office, given the fundamental principle of political accountability.

Mr. Elston: There are a couple of other questions—there are several others, but to ask just two of them: one is with the civil procedure revisions. Can you tell us what the status is and a little bit about the class action—

Hon. Mr. McMurtry: Yes. I was going to mention that as another major commitment of the policy division at the moment. That has been a very massive undertaking. The late Walter Williston did an excellent job with

respect to his report, but notwithstanding the excellence of his job there was a great deal of fine tuning that still had to be done.

There is a committee—really a bench and a bar committee of sorts—that has been working very hard on this. Because obviously if the actual final drafting does not make sense to the profession and the judiciary we will not have accomplished a great deal. While we are not bound to accept the views of the judiciary and the practising bar with respect to the final form of any of the new rules, their input is of vital importance.

12:30 p.m.

Mr. Justice Morden of the Court of Appeal has been playing a leading role in assisting the ministry with the technical aspects of the new rules. While we had hoped that the project would have been completed a long time ago, it does not look as if we are going to have any new rules to present to the Legislature before next September.

Mr. Elston: Could you let us know a little bit about the study on class actions and what sort of expense has gone into that to this point?

Hon. Mr. McMurtry: The chairman of the Ontario Law Reform Commission and I met as recently as yesterday afternoon to talk about the class actions project. I am very much impressed by the most careful and comprehensive approach that has been taken by the commission on a very complex subject and I am confident that the report will be the most comprehensive report on the subject that has been made by any law reform commission, or other body, anywhere.

A number of different aspects of the problem have been fully reviewed. I would be quite happy to share some of the issues with the members of the committee before the end of the estimates. I do not have the list of chapters that may be in that report, but it is an issue of great importance and the law reform commission's approach has been detailed and comprehensive. I think any lesser approach might not do justice to the issue.

They have made a significant commitment of resources to making this report up and had hoped we might have it by this fall, because I have indicated to the commission that a number of members of the Legislature were interested in the project. I expect that the report will be tabled in the early spring.

Mr. Mackenzie: I guess it is frustration that led me to request of my colleague a bit of his

time in the estimates of your ministry. In several meetings over the last couple of years we have discussed the quality of justice as a result of some of the delays in the courts in Hamilton. I felt the best way to handle this problem was to have a summary of my files made by one of our research people. It is a very brief summary, I might say, because the biggest single problem for the courts in the Hamilton area is the backlog of cases and the consequent delays.

An article in the *Hamilton Spectator* on November 1, 1978, mentioned "danger signs appearing in 1972." However, sources agree the problem really became significant in 1976-77, when about 16,000 charges were received and only 13,500 were disposed of. The courts never recovered from the backlog and of course each year the number of charges has increased.

Hamilton-Wentworth region has a population of about 400,000 and the courts handle an average of 20,000 criminal charges a year, which is a proportionately higher criminal caseload than other regions like Ottawa-Carleton or Peel. The court backlog is now larger and the delays longer in Hamilton than anywhere else in Ontario.

Superintendent Frid of the criminal investigations division recently warned that the "entire court justice system is threatened with breaking down. The courts are being swamped." That is from an article in the *Hamilton Spectator* of September 23, 1981.

In 1978, court officials estimated that they were sentencing cases six, eight and 10 months down the road. There have been several *Hamilton Spectator* articles on that and in 1980, Anton Zuraw, a crown attorney, complained that anyone committed for trial at that time probably would not be heard until April 1981, which is at least a nine-month delay. In October of this year, one of the local lawyers confirmed the situation had not improved very much. I might add that I have been rather surprised at the number of local lawyers and police officers who have talked about the situation with me, as the member for the east end of Hamilton.

Lawyer William Tidball estimated that any serious trial requiring extensive court time would not likely be heard until May 1982. As cases are funnelled from provincial court to county court, the backlog is becoming serious there, too. This spillover effect has caused the backlog in the county court to triple over the past two years. Delays, of course, are difficult for the defendant and witnesses alike.

A spokesman for the Hamilton Law Associa-

tion complained, in 1978, that four months could elapse between testimony by different witnesses in the same case and that at times a break of that length of time has occurred in the middle of the testimony of one of the witnesses. The same complaints have been reiterated over the years up to the present. Those involved have not been slow in bringing their concerns to the minister's attention.

I note that, back in 1976, MPPs from both the opposition parties, Deans and Smith, for example, criticized the Attorney General for failings in the local justice system. In 1977, Mayor MacDonald of Hamilton met with you to ask for extra judges to cope with the backlog of cases. There was an article on that in the *Spectator* on September 7, 1977.

Since 1978 there have been rumblings from the justices themselves. The *Globe and Mail* carried an article on November 1, 1979, in which Hamilton judges Bennett, Marck and Mitchell expressed their frustration with the delays. Their comments were supported by Mr. Zuraw and by a spokesman for the Hamilton Law Association. In 1980, Chief Justice Howland mentioned that he had written to the minister about districts like Hamilton which had notable backlogs.

Your response has been to promise action—you have done the same in meetings we have had over the last year or two—and to insist that you are "studying the matter," or "investigating the matter." In 1977 you promised an investigation was to be held into the backlogs and in 1979 you insisted that the delays were "unacceptable" and that you were "looking into the problem." My references here have been taken from Hamilton *Spectator* articles of September 9, 1977, and October 30, 1979.

When this approach failed, you seem to have attacked the justices for not sitting long enough, a point which you raised in our meetings as well, Mr. Minister. Criticism of the work habits of the justices might not be out of place. Provincial statistics for 1977 showed that Hamilton judges were sitting an average of 3.4 hours a day, four days a week, compared with the judges in Windsor, for example, who were sitting 4.3 hours a day. While I understand they now sit slightly longer, there is no evidence to suggest that they are breaking new records for time or efficiency.

You have opened a provincial courtroom in nearby Dundas, which was first mentioned in 1976 and finally came about in 1978. This has only slightly improved the situation because the

lack of space is not the only obstacle to the administration of justice in the city. This is a matter that Mr. Zuraw also raised with me at great length. The local system is also afflicted with staff shortages. Four or five lawyers have spelled out to me some of the problems in that area.

The addition of the new courtroom in Dundas was accompanied by the occasional loan of one Toronto judge, but there are still only six full-time judges, seven county court judges and 12 crown prosecutors to deal with an average of 20,000 criminal cases a year. The crown attorney's office is so understaffed that almost every day he must retain part-time prosecutors to help with the caseload. At present he calls on approximately 20 lawyers for assistance. Assistants in his office work an average of 50 hours a week, 70 to 80 hours a week when preparing complex cases, even though they are scheduled for only a 36.5 hour work week.

Requests for additional judges have ranged from the conservative to the extreme. The Hamilton Law Association has been asking for one more judge and courtroom, the mayor requested two more judges and individual lawyers have said they would be happy with as many as six more judges and six courtrooms to go with them. In response to complaints, I believe you promised two more courtrooms before Christmas of this year. It was mentioned in the *Spectator* this fall, but no mention has been made of new judges, prosecutors, clerks or the reporters necessary.

Local lawyers have complained about the dispersion of court buildings in the city. The Supreme Court of Ontario is held in the County Court Building on Main East, the criminal division of provincial court is held at Terminal Towers on Main East, the traffic court is in a building on James Street, the united family court is at another address on James Street and there is the new provincial courtroom in Dundas. All of this adds to the confusion in the public mind about just where the court is held. There have been demands for rationalization of the system and requests for an integrated building along the lines of the ones established in London and St. Catharines.

12:40 p.m.

Court officials and the police have shown concern about long delays because it is difficult to protect witnesses and intimidation has become something of a local tradition. The most spectacular recent example of this involved a rape trial involving members of the Wild Ones

motorcycle gang. In May 1979, two members of the gang blew themselves up while planting a bomb near the home of a witness at the pending trial. Several days later another bomb was discovered near the home of a witness. Months later one gang member was killed and another facing charges was injured when a bomb exploded in their car.

The case was so obvious that the minister promised to "watch the trial carefully," according to the *Hamilton Spectator*, June 13, 1979. Two crown witnesses were intimidated during the months that elapsed between the laying of charges concerning the incident in August 1978 and the preliminary hearing held in July of the following year. It is interesting to note that the gang member injured in the blast and originally charged in connection with rape was acquitted.

To stop there for a moment, I can say I have personal experience of the kind of intimidation that goes on. I raised this with the minister some three or four years ago when my own son had hell kicked out of him following a city championship football game at Ivor Wynne Stadium. My wife and I arrived at the hospital just as a police officer was escorting out two of the people who had done the kicking. The police had been called by doctors at the hospital because these people had entered the room where my son, Danny, was being attended, to tell him that if he talked to the police or testified, "he would get it." I raised that with you in the House at the time, Mr. Minister.

In 1974 an arsonist was acquitted when he testified that he was forced at gunpoint to set fire to Modestou's Hair Salon. Mr. Modestou was charged with obstructing justice by encouraging key witnesses in the case to return to their native Greece. The fire occurred in April 1973. The trial of the arsonist on the resulting obstruction charges was in January 1974 and Mr. Modestou was not sentenced until May 1975, a time frame which allows plenty of time for intimidation. This is the pattern in many of the cases.

In 1977, an east-end apartment was bombed. The targets were apparently two witnesses at a local drug trial. Both complained that they had been approached and threatened on several occasions during the two-year period, presumably the length of time it took for the case to be resolved.

Apart from intimidation, the administration of justice in Hamilton is plagued by a number of cases in which charges are dropped or dismissed, not to mention the number of cases

where charges are not laid at all. I do not know whether it means anything or not but when I asked a crown attorney and some of the lawyers whether it was true that a case in Hamilton might be held over as often as 33 times, they said it was.

A list of extortion attempts compiled by the *Spectator* on September 27, 1980, reported 33 cases over the last 10 years, 31 of which involved explosives. Only four individuals were charged and convicted in connection with these incidents. Three were charged but had charges later withdrawn.

For example, in the 1974 destruction of a variety store by a fire bomb, two men were charged, but charges against one other were dismissed and charges against the others were not proceeded with. In the 1977 bombing of the east-end apartment mentioned earlier, one man was charged but a year later charges were withdrawn.

This inevitably raises the question of the efficiency of the police in the streets as well as in the courts. There is a lot of strong feeling about the kinds of delays that we are having from the police end of it. To be fair, it should be mentioned that five people are now before the courts in connection with a bombing-extortion racket involving people who are reportedly local Mafia, and bikers. Their activities will account for at least seven bombings from the list I mentioned over the last few years.

There are indications, however, and a general feeling, that the sentences will be light. A Dunnville man, one Vanderkooi, who pleaded guilty to possession of explosive substances, was linked to seven explosions over the past few years. Incidentally, he was charged in the fall of 1980 and his trial came up only this month.

Sentences in many other instances, when awarded, seem rather light. Two culprits responsible for fire-bombing a truck belonging to Waxman Recycling Industries were sentenced to only nine months in jail, although damage was estimated at in excess of \$30,000. In this case the men were charged in 1977 but not sentenced until February 1980.

Intimidation is also a specialty of some of the gangs we have in the area, of which the Parkdale and the Barton-Sherman gangs are the most notorious. It has been estimated by the authorities, including the Attorney General, that these gangs have very few members and that may be accurate; there seems to be a basic hard core in the gangs. Nevertheless both gangs have managed to remain active for the better part of 20

years in the city. It is only in the last two or three years that we have got rid of the mini-mob which was there, also for about 20 years, and which seemed to be the lead-in to the Parkdale gang. They have graduated from assault and petty theft to sophisticated drug dealing and murder.

In 1977 the Parkdale gang "zooed" a Kenilworth Street tavern after management had laid assault charges against a gang member. The charges were dropped after the tavern was damaged. This obvious obstruction of justice resulted in a study by the Ontario Police Commission, but apparently little change has resulted.

You have insisted that the group consists of only 15 or 20 members, as far as I have been able to determine. However, over the last 10 years, 845 charges have been laid; 428 have resulted in convictions, 370 were "disposed of otherwise," whatever that means, and 47 are still before the courts. Nevertheless, after the recent murder at Hamilton Place in which only one suspect was arrested and charged, although approximately 20 took part in the beating death, regional police admitted that on this occasion potential witnesses had been intimidated by the gang's reputation.

Leniency of sentencing also seems to be a problem here, Mr. Minister. On average, the police are reluctant to criticize the judiciary. Deputy Police Chief Patterson is on record as complaining about the swinging-door system in the courts and I have had a number of talks with Chief Patterson on that. One example from the newspaper may illustrate this.

Colin Smith, a member of the Parkdale gang, appeared before Judge Graham in 1975. He was at the time 16 years old and had appeared in court just months before on charges of breaking and entering and theft, for which he was sentenced to two years' probation. On this new occasion he was up on charges of assault causing bodily harm. Along with three other young men he had attacked and robbed a youth. The victim was apparently repeatedly hit on the head. His nose was broken, his eyes bruised, ribs broken, forehead cut, et cetera. He was kicked as he was lying on the ground.

Judge Graham warned, "With his chequered background"—referring to the young man—"if he comes before the court one more time, the roof will probably fall on him." The judge then proceeded to sentence him to two years' probation for his part in the assault.

One more recent example is McIntyre, the gang member charged with the murder at Hamilton Place. In an earlier trial, Sergeant

Monte stated that McIntyre "seemed always to be at the centre of serious assaults and malicious damage." He had been before the courts on an assault charge, on robbery charges, for an indecent act and for escaping custody before he was finally apprehended and charged with the beating death of John Turner. It appears from newspaper clippings that he received few and light sentences. His prison sentence for the part in the beating death, the most recent one, was three years.

While the organization and cohesion of the two gangs is always played down by the authorities, it seems, at the same time, the police frequently fall back on the gangs to explain some new outrage. When a young man was gunned down outside his home in the east end of Hamilton just recently, police referred to internecine warfare between Barton and Parkdale gangs to account for the murder. No arrests have been made.

I have my doubts about their statement on that, but I also would bet you dollars to doughnuts that we will see another murder very shortly over that case. I happen to have known the young man's father, a retired carpenter and a Workmen's Compensation Board claimant of mine, and it was an experience, I can tell you, going down briefly to the funeral parlour. Just the mood of the 500 or 600 people who were there indicated that there was going to be trouble over that case.

Now, according to local sources—and some of this comes to me from the police officers in the area—the gang members have shifted into more sophisticated and better-organized drug dealing. They are using a tavern known to the police, the Hot Line on Kenilworth Avenue. Notwithstanding a serious police objection at the Liquor Licence Board of Ontario hearing, the tavern was granted a liquor licence and the establishment and its clientele are flourishing.

It is interesting; as one police officer said to me, "What we have now is the old 'Don't shit in your own nest' syndrome." Where there used to be weekly charges from problems in that particular hotel, since it has been taken over and now they have set up a nice sophisticated little telephone system you cannot get at from the outside—and where, the police tell me, just about all of the drug dealing in the region goes on—you now get clobbered if you as much as open your mouth in the place and they run it as clean as a whistle.

It just irks me that we can have this kind of formalization of an organized crime setup in the

area. While it may not be political or appropriate to criticise the Hamilton police, in this case something is clearly wrong in terms of justice when bombings and beatings become frequent and regular occurrences and when ferocious and rather brutal crimes seem to go unpunished.

The pattern of crime in the city involves the law enforcement agencies as well as the courts, but most people agree that it takes so damned long to get any action and we have such a shortage of facilities and such a backlog of cases in the courts that it is a major part of the problem.

Just to finalize it, Mr. Minister. I know you are aware of this and I think it makes a couple of points. I am not arguing—because I am not competent to; I am not a lawyer—the merits of the questions asked by Mr. Turner, the father of the chap who was beaten to death at the Hamilton Place event, in the letter he sent to Anton Zuraw, crown attorney, just a week or so ago. However, this is his letter and I want to read it into the record:

"Dear Sir:

"Mr. Roy McMurtry in a letter dated October 26, 1981, and received on November 23, 1981, suggested I contact you if I had any further concerns regarding my son's—John V. Turner's—death on August 16, 1980. There are several questions which still seem to be unanswered and which the presiding judge was not, maybe, made aware of regarding the trial of George Everett McIntyre.

"1. Sergeant Ryan of Hamilton Police categorically stated that John was knocked unconscious with a bench press as quoted to Armin Schoft." I think that was the other lad involved when they were assaulted.

"2. A doctor, whose name I will provide at a later date, at Hamilton City Hospital confirmed that John was strangled to death.

12:50 p.m.

"3. Why did Mr. Carr not try to prove John's death was premeditated like he said he was going to do as quoted to me by Armin Schoft?

"4. A gold chain with Taurus medallion was stolen from John's neck as he lay on the floor during the beating. Have the police tried to locate this item?

"5. Why were Sue McArthur and Bev McKnight, two very good witnesses, not asked to testify for the crown?

"6. One of the Parkdale gang was in a wheelchair and was seen leaving Hamilton Place with the perpetrators in their car." This is

a story that has been around since the day of the assault in Hamilton, as you well know, Mr. Minister. "Why has he not been caught?"

"7. Why haven't some of the other members of the Parkdale gang been caught?"

I will not comment on his editorial, but I will finish with the other questions he has asked.

"8. Why were witnesses for the defence considered credible when it is obvious they were fixed witnesses and probably members of the Parkdale gang, which could have been determined at the discretion of the judge?"

"9. Why weren't witnesses for the crown shown pictures of the Parkdale gang so they could be identified? Still hasn't been done to date.

"10. It took a year to bring McIntyre to trial, yet one key witness was given eight hours to be at the trial, which she could not make.

"11. Witnesses that I talked to found the Hamilton police very unco-operative and one witness, Bev McKnight, was phoned to come and testify at 1 a.m. the day of the trial by Hamilton police. Is this the way to conduct your office?"

"Bev Knight distinctly stated that this gang were intent on hurting John more severely than Armin and were not really interested in Armin Schoft at all. She also stated, without a doubt, that there were 10 members at least involved in this killing, yet the defence claimed there were only four or five people involved in the fist fight.

"When the ambulance arrived at Hamilton Place to take John to hospital, the ambulance crew had to resuscitate John as he was already dead from being strangled.

"It is plain to see that the judge was not made aware of what really happened and I think you should declare the trial of McIntyre a mistrial. The trial should be held again so the truth can come out.

"My own opinion is that if this crime had occurred in Toronto, the criminals that did it would all be in jail.

"Could you indicate for me what the 13 previous convictions against McIntyre were for?"

Obviously a chunk of that is the anger and frustration of the father who is involved, Mr. Minister, but I think it just helps to point out the kind of problem we have, the kind of problem we have raised with you very strongly.

I am sorry to say it again, but I have had you even tell me that maybe we should be asking you tougher questions about it in the House to get some of the facilities which are needed. I do not

think that is good enough. We have a problem in the Hamilton area and I do not think you have been responding to it. I am sincerely frustrated about what is going on in the area, in the delays which inevitably mean we do not get justice in the system in Hamilton.

Hon. Mr. McMurtry: Mr. Mackenzie, is the letter you were just referring to a letter which has been sent to me?

Mr. Mackenzie: It was a letter which was sent to Mr. Zuraw, in which Mr. Turner claims that as a result of a letter he had sent to you he was asked to state his additional complaints to the crown.

Hon. Mr. McMurtry: Did he send a copy? I have not seen that letter. Perhaps if I could have a copy of the letter—

Mr. Mackenzie: You can have a copy of it.

Hon. Mr. McMurtry: We will monitor Mr. Zuraw's response. I think you know Mr. Zuraw personally. I have encouraged him, as you also know, to meet with you at any time that you desire in order to discuss any of these ongoing issues. There is no question that—

Mr. Mackenzie: May I interrupt you for just a moment, Mr. Minister?

Hon. Mr. McMurtry: Yes.

Mr. Mackenzie: That is one of the things which is really frustrating me here. Yes, I think he is trying; he has been one of the most severe critics, according to the newspaper articles. He obviously has not hit it and I have no idea of Mr. Zuraw's background, but one of the things which frustrates me is that when we meet and talk about some of these things and I raise the frustrations I have about delays, Mr. Zuraw tells me, "Those are the same things I am raising with the minister." Now, I do not know what the point is in having him talk to me, as you yourself have suggested, if we are talking the same lingo and are facing the same problems with you.

Hon. Mr. McMurtry: Yes. There are issues other than just—the resource issue we agree on. If you had been present during any of our budget presentations, you would have heard us communicate many of the same frustrations that you have expressed.

I was trying to find out for you just when those two new courtrooms are going to come on stream. I will have that information later. Obviously Hamilton is not the only place, unfortunately, where they require additional crown resources. We have asked for an additional 50 crown attorneys in the system. The

utilization of part-time crown attorneys has also become a very common dimension of the prosecutorial system in Ontario and it is something that I am not happy with at all.

The cost of a part-time assistant crown attorney is quite significant, and although, at \$35 an hour, it is not a particularly money-making activity for the lawyers who do participate to assist us, and most of whom are pretty good, we would prefer to see those moneys spent for additional full-time crown attorneys and we expect to increase the complement for Hamilton.

I have some comments with respect to some of the other statements you have made and I would like to spend the few remaining moments we have. Certainly, once a person goes through a preliminary hearing and is committed for trial, we are not likely to get them to trial any sooner than in six months. It is interesting to note what you have to say about the lawyers, because we never really receive any complaints from the defence bar in relation to these delays. We never receive any complaints from the accused.

One of the frustrations in the system for us with respect to these delays is the fact that while we recognize the importance of allowing people to have the counsel of their choice, in my view it has institutionalized delays in the system. It is something that the profession and society are going to have to take a look at. I mentioned this publicly in a speech I gave recently, in Halifax, at the Canadian Institute for the Administration of Justice. Because a lot of these delays are simply caused by the fact that the lawyer appears in court and says, "I cannot go ahead," or, "I will not be able to go ahead with my case because I am tied up in another court."

Our system has long recognized the right of individuals to the counsel of their choice. I have said on previous occasions I am of the view that this is a principle which is going to have to be modified. What I mean by that is I believe that because of the fact that many of these delays are caused by unavailability of counsel, we are going to have to develop a system whereby, when the person retains a lawyer, it is understood that he or she may not have the lawyer of first or second choice. I just do not think the system can continue to stand the strains, because it is institutionalizing these long delays.

So the problem of delays in the criminal justice system is not just related to the inadequacy of resources, although we freely admit that the resources are inadequate. Part of the problem is with respect to the system which I have spoken about.

In Great Britain, of course, there is the split bar; barristers and solicitors, as separate professions. If a person retains a solicitor, when they are given a trial date they have to proceed and it is up to the solicitor to find a barrister to take their case. I have certainly encouraged debate within the profession about this problem. If the court forces a person on without a lawyer, what will happen is that Court of Appeal will order a new trial. These estimates are a good opportunity to discuss some of these problems with respect to the delays.

1 p.m.

The proliferation of court buildings in Hamilton is not something that is of great concern to the public. It is more of concern to the lawyers. Given the enormous cost of new courthouses, we are going to continue to have a proliferation of courts. In other words, they are not all going to be in the same location.

I have to tell you I do not have a great deal of sympathy for the lawyers who want them all in one location, not for the convenience of the public, but for their own convenience. When you look at large communities like Hamilton, you are not going to have all of them together.

It would be great, the best of all possible worlds, to have all the courts in the same building, but my own experience was that my clients really did not care where their case was going to be heard. They were worried about how it was going to be heard and what the result was going to be, but whether their trial was going to be in downtown Toronto or Scarborough really was not a big issue with them.

Mr. Mackenzie: The inadequacy of some of the facilities and holding facilities are a serious problem though. I have had both lawyers and Mr. Zuraw raise with me that we have had more than our share of escapes and they expect more due to the inadequacy of the facilities. That is exactly what I have been told.

Hon. Mr. McMurtry: Yes. I cannot recall

offhand hearing many complaints about the holding facilities, although your information may be correct.

Mr. Chairman, it is one of the clock —

Mr. Chairman: Yes, Mr. Minister. Mr. Piché asked for one minute, if he may, please.

Mr. Piché: Since the clock has run out, what I was going to suggest is that I would just go on the record that I would like to have the opportunity to ask a couple of questions on the opening remarks made by the minister the next time we meet. I have some questions to raise on that. I do not intend to do that right away. I understand it will be around December 10 when we deal with that particular clause.

Mr. Chairman: Yes.

Mr. Piché: But in the meantime, I will have just a couple of very minor questions that I do not want to take the time right now to ask.

Mr. Chairman: We have a problem in that we are going to pass vote 1401 today and we will be going on to vote 1402. Let us hope, Mr. Piché, you can fit it within one of these other votes.

Mr. Piché: Yes. I will just raise it. It is very minor.

Mr. Chairman: Fine. Thank you. There being an agreement here, shall vote 1401 carry?

Vote 1401 agreed to.

Mr. Chairman: Shall we adjourn until tomorrow following routine proceedings?

Mr. Renwick: Mr. Chairman, I understand that next Wednesday the Attorney General will not be here. Is that right?

Mr. Chairman: Yes. That is correct. And Mr. Taylor will be taking the chair.

Mr. Renwick: We will be continuing?

Mr. Chairman: Yes.

Mr. Piché: Is that tomorrow that Mr. Taylor will be taking the chair?

Mr. Chairman: No, it is on the ninth, I believe. The committee adjourned at 1:03 p.m.

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Ontario LEGISLATIVE ASSEMBLY

No. J-25

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney General



First Session, Thirty-Second Parliament
Thursday, December 3, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, December 3, 1981

The committee met at 3:44 p.m. in room No. 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

Mr. Chairman: We will reconvene. If you will carry on please, Mr. Renwick.

Mr. Renwick: Mr. Chairman, I am not, in any way, trying to impede today's proceedings. They are going to proceed because I have discussed this with you, the clerk, the government House leader, my own House leader and everyone else, but the refinements of the rules are just beyond my comprehension.

The Order Paper states this committee will meet today, following routine proceedings. There is an emergency debate taking place in the assembly at this present moment under the rule which states, "Before the orders of the day, any member may move to set aside the ordinary business of the House to discuss a matter of urgent public importance."

I had assumed this committee met after the orders of the day. I am apparently technically wrong, even though there is no authority in the rules for it. The Order Paper says it is after routine proceedings.

Routine proceedings are completed, the orders of the day have not been called, the House, on its motion, has set aside its ordinary business, which I would have assumed included its committees, on a matter of urgent public importance. There is an emergency debate going on there and all members are now given the invidious choice: do we listen to an emergency debate on a matter of urgent public importance, or do we carry on with the routine work of this committee?

I think the substance of it should be very clearly understood. Two things: committees should not meet until after the orders of the day have been called; and secondly, in my judgement this motion on the emergency debate should be read to include both the ordinary business of the House and its committees, so that members could attend the urgent emergency debate.

It applies to every member. It happened to

focus on me today. If I was not here and this committee proceeded with the Attorney General's estimates, I would miss them. If I were to participate in this committee, I would not be participating in the emergency debate.

I was then given the ridiculous suggestion that I could slip out and slip into the House for 10 minutes. That is not what debate is about. Debate, in theory at least, whether it is in practice or not, is to listen to the debate and to participate if and when you choose.

As I say, I am not interested in interfering with this process, but I did want you to know—and I particularly wanted the clerk to know—I have raised this with the clerk of the committee and the Clerk of the House. I have asked the Clerk of the House to raise it with Mr. Speaker. I have spoken with the government House leader and with the House leader of our party about it, but the substance of it seems to me to be clear. These ultimate refinements of the rules should not be allowed to impede the commonsense application of the rules. As you can see, I am theatrically, but not personally, upset about it.

Mr. Chairman: Mr. Renwick, do you wish to make a motion on that?

Mr. Renwick: If it is in order, Mr. Chairman.

Mr. Chairman: Mr. Renwick moves that the chairman of the committee, in his capacity as chairman, get clarification from the House whether members should be in the House during an emergency debate.

Mr. Breithaupt: Mr. Chairman, I would certainly speak in favour of that motion. As House leader of my party for some years, we were involved at the time the rules were redone. I must confess, once the committees began, the practical result did not occur until Mr. Speaker had called for the orders of the day. That seemed to be the sort of trigger by which a variety of other things would then happen.

Now we have the circumstance by which not only an emergency debate is continuing before the orders of the day have been called—and that point was accepted by the House—but the committee work is to continue in its normal pattern.

I think the various refinements of the rules are something to be considered, so it can all be made clear. Now, it may be the House prefers to have the system exactly the way it is. If so, that should be spelled out somewhat more clearly. The past practice has been, at least through my understanding, that once orders of the day have been called, then various other things happen.

I would think it would be useful to express our view to the government House leader. It is something worthy of being looked at so all the members are aware of what results from a debate being accepted by and continuing in the House.

Mr. Williams: Mr. Chairman, I appreciate the concern being brought to the attention of the members of this committee by Mr. Renwick. There appears to be some uncertainty in the procedural motions set out under the standing orders. It has created a dilemma; we have come into a hiatus situation between the completion of routine proceedings and before the orders of the day.

3:50 p.m.

I gather what you are essentially asking is what our legitimate status as a committee is, in operating when the members are in a quandary as to where their priorities are to be placed, either in the House or in committee. It is certainly a valid concern. If the rules of the House are unclear through omission on this point, it is something that should be clarified.

I thought Mr. Renwick was simply going to bring this dilemma to our attention without trying to formalize the matter in committee. I would suggest it is essentially a matter of House business. I think it would be, with respect, inappropriate to try to use one particular committee of the House to raise the problem of procedure with the House.

If, as you state, Mr. Renwick, you brought the matter to the attention of the Clerk of the House—while we would all be most interested in finding out what the resolution of the matter can be—I am wondering whether using formal motion and selecting one committee to bring the matter formally forward to the House is the appropriate procedure. It is one which concerns all committees and the general operation of the House as a whole.

Mr. Chairman: I think Mr. Renwick is suggesting in his motion that the chairman of this committee investigate it further. I had interpreted that as my passing it on to the procedural affairs committee to deal with this matter and establish when we are to begin.

Mr. Breithaupt: That would be an opportunity, Mr. Chairman. From my point of view, I do not think our particular concern in here needs to be made as a report to the House. I just think if we are concerned about it and you share the view that all members would like to have this attended to, if you would be so good as to pass it on to the chairman of procedural affairs and to the government House leader, I think that accomplishes what we would seek.

Mr. Williams: I thought the motion was to have the committee carry the initiative on it and take it to the House, which is perhaps coming on a little heavy.

Mr. Renwick: I have just a brief comment. I had not really raised it with the intention of actually putting a motion at all.

Mr. Williams: No, I did not think so.

Mr. Renwick: The chairman suggested it and the reason I acceded to it was I was not thinking of it being brought as part of a report of this committee to the House. I thought the chairman would simply say there was some validity to the ambiguity in the rules and he, as chairman, would like to get some guidance as to what the situation is. If it needs to be clarified, fine. I was not thinking of it as any formal motion—

Mr. Williams: Could we perhaps revert to that situation and let—the chairman has indicated he is willing to take that initiative on an informal basis rather than get all formal about it.

Mr. Breithaupt: That is most satisfactory.

Mr. Chairman: This committee, in its less than co-operative times in the past, made the rule that no matter will be dealt with unless there is a motion on the floor—it was a position taken by the Liberals—yes, very excitedly, by Mr. Bradley. That is why it is in the form of a motion. So, all those in favour of that motion—it is in motion form, but it is in keeping with your wishes.

Mr. Breithaupt: Mr. Chairman, apparently you have had a motion put in order that we could have some discussion.

Mr. Chairman: Yes.

Mr. Breithaupt: Now that we have had the discussion and you have our views, it may be appropriate to have the motion withdrawn. Then we could just continue with that, if it is suitable.

Mr. Renwick: I would be quite happy to.

Mr. Chairman: Withdraw your motion? Thank you, Mr. Renwick. I will carry on with that.

Again, having my glasses off and being able to see beyond Mr. Williams, we will now reconvene with the estimates of the Attorney General.

On vote 1402, administrative services; item 1, main office:

Mr. Breithaupt: Mr. Chairman, in this vote, which of course will carry at the end of today's hearing, the major component refers to the operation of the legal aid system in Ontario. As you will note from a review of the vote on page 23 of the briefing book, the contribution to the Ontario legal aid plan of some \$37 million is by far the major portion of the moneys allocated in this vote.

The other component parts of the vote are financial services, personnel services, analysis and planning, audit services and systems development services. I think it is fair to say that in those five portions the administrative functions of the ministry are quite apparent; they must be done and they probably will not occasion very much comment from the members of this committee.

The one area that will certainly seek some concern and discussion with the Attorney General (Mr. McMurtry) is the operation of the legal aid plan. The Attorney General will recall the comments I made in my opening remarks on the subject of legal aid and my concerns with respect to how the program is being received, not only by the public, but—and especially—by the lawyers who are involved in the plan.

I suggested that one thing to be considered was to raise the contribution and therefore the resultant fees which lawyers receive under the tariff scale for time spent in legal aid matters. I also suggested that another way of accomplishing the same purpose, but again at cost to the general public, was to either reduce or eliminate the deduction of 25 per cent from the tariff as a contribution to the legal aid plan, as is done at present. Those are only two of other possible changes.

It is interesting to look at the number of applications for legal aid set out on page 22 and to find, rather suprisingly, that they have remained about level for three years. I do not know whether we will find a serious change in those statistics in the coming year because of the economic difficulties that many of our citizens will find themselves in. I would hope that is not the case. One can only plan for the future, ordinarily, based upon the existing statistical background and the numbers of applications over the past three years, and indeed the numbers of certificates issued, have remained virtually static.

Under the legal aid system, as well as under any other system—including the expectations for the Ombudsman—it was thought that once the hard core of cases which members had dealt with over the years—those chestnuts that keep going to the bottom of the pile and never get attended to—were in fact resolved, the work load would be light and no staff increases would be needed. But as we all know, life does not work that way and the opportunity to have more people involved in the program brings about its own impetus. That impetus, I think, has been maintained quite well by the plan.

However, the legal aid committees, composed of lawyers and other citizens, are prepared to spend time and with the approach that the bar associations take the plan works almost in spite of itself, in spite of the difficulties which arise and the disappointments which occur. Delays in payments of accounts are a burden to lawyers just as, in somewhat similar circumstances, they are a burden to doctors under the health system or indeed to anyone whose account might be delayed.

4 p.m.

I would like to hear from the Attorney General how he views the caseload for this coming year. I would like to know if there have been any educated guesses and whether some increase in funding is at least being considered as one of the alternatives in the event circumstances require that we do more in the difficult winter I am afraid we are going to be facing in many parts of our province.

Hon. Mr. McMurtry: It is always difficult to predict what the caseload will be. Quite apart from any eligibility criteria developed by the Ministry of Community and Social Services there is a degree of discretion as well with respect to the local area directors regarding the issuing of certificates. We do not foresee a dramatic increase in the demand, but in an uncertain economic time the dangers about which you have spoken are realistic considerations.

We have a statutory responsibility for the payment of legal aid accounts. If legal aid is over budget so far as accounts are concerned, we still have the statutory obligation to pay these accounts once they have been approved by the plan. Occasionally the plan is frustrated by our inability to provide it with the necessary funds as quickly as we would like. There have been delays from time to time, particularly towards

the end of the fiscal year if we run into some budgetary problems, but we usually obtain supplementary amounts in this respect.

Quite frankly, the amount we estimate for legal aid is usually relatively accurate and usually more than what we are allowed. Invariably our estimates turn out to be a little more accurate than those of the central agencies of government.

With us this afternoon is Mr. Glenn Carter, the general manager of the programs and administration division of the ministry, who has a close working relationship with the legal aid plan. Perhaps, Glenn, you could give us some overview with respect to Mr. Breithaupt's concerns.

Mr. Carter: The experience to date indicates that the percentages shown on page 22 will remain roughly constant. However, an important factor, as the Attorney General points out, is the provision in section 98(1) of the Legal Aid Act regulation for the ministry to go forward to the government if there are insufficient funds for certificates. That has happened in previous years and our experience has been that these funds are forthcoming. That allows us to meet, to some degree, an increased demand for certificates, or something of that nature.

Mr. Breithaupt: I am sure you are familiar with the legal aid study done by Alan Levy, Derek R. Freeman and Gloria Klowak, QC, as a joint subcommittee of the civil litigation and family law sections of the Ontario branch of the Canadian Bar Association. That study was completed on April 15, 1981, and I presume has made its way into the ministry. The report contains 28 recommendations.

Can you let us know if some of those recommendations, at least, have been favourably received and, generally, what ongoing discussion there has been as to how the plan may be improved upon as a result of the recommendations flowing from this report and from other comments which have been received from practising lawyers, judges, legal aid directors and everyone else involved in the program? How have you handled this report?

Hon. Mr. McMurtry: I have not seen the report.

Mr. Breithaupt: Isn't that amazing? I find that quite strange.

Hon. Mr. McMurtry: If they do not send it to me, I am not likely to see it.

Mr. Breithaupt: No, indeed not. I will be glad to give you my copy because the recommenda-

tions, together with detailed comments from lawyers and others listed in the appendix, show the concerns which exist. I presume the lengthy article in the Sunday Sun of July 5, 1981, entitled "Legal Aid Goes on Trial," has been seen by the ministry and may even have come to the attention of the senior members of the legal aid plan. Or has it?

Mr. Carter: I may have read it at the time but I do not recollect it.

Mr. Breithaupt: The best thing I can do in this vote, I suppose, is to hand these to the Attorney General in the hope there will be some response to or communication with the subcommittee, or whatever action is considered appropriate, to allow changes in the legal aid plan to be discussed and considered.

Mr. Dick: Mr. Chairman, may I make an observation to Mr. Breithaupt? We work very closely with the law society, which has responsibility for the administration of the legal aid plan, and with the committee of the law society. A good many of these things I know are considered by the law society and perhaps some of these people have submitted these things because they are actively involved in it.

Since neither Glenn nor I are aware of having seen this particular report, we cannot answer any specific questions.

Mr. Breithaupt: There may be an opportunity to discuss this in committee—if not, perhaps by letter or in person—and go over some of the points brought out in the report. I am, of course, quite surprised that the study is not known to the ministry.

In the letter from Mr. Levy which accompanied the copy of the report he sent to my leader, Dr. Smith, he commented that: "The primary problem with the plan is the lack of financial support given to it by the government. Although I was advised that the tariff review committee would be meeting in September to review the present tariff with a view to increase, I do not believe that the committee has even met at this stage. I am also enclosing a copy of an article printed in the Sunday Sun of July 5, 1981."

Hon. Mr. McMurtry: Mr. Dermot McCourt, the deputy director of the plan, is with us.

Mr. Breithaupt: Perhaps Mr. McCourt would like to comment.

Hon. Mr. McMurtry: I am going to be speaking to a meeting of area directors tonight, as a matter of fact. To my knowledge we have not heard about any work that has gone on with respect to a proposed new tariff. One of the

messages I am going to deliver tonight is that I think that is probably unfortunate because we have had a joint committee working between the law society and the ministry with respect to the financial administration of the plan that I think has been a very effective partnership.

I think, quite frankly, the law society is making a fundamental error in judgement in moving to develop a new tariff without this consultation. I only learned about this this morning and my information may not even be totally correct. My advice to the law society will be that they are being a little bit naive as to how these things get done.

4:10 p.m.

Mr. Breithaupt: It would indeed, I think, with respect to our peers in the back benches, be somewhat prudent to make sure that what they are doing has some chance of practical acceptance. Perhaps we can hear whether some other knowledge of Mr. Levy's contribution exists in the ministry.

Mr. McCourt: Mr. Chairman, as I recall it, Mr. Levy's report was addressed to a subcommittee of the legal aid committee, if not in fact the legal aid committee itself, which at that time was dealing with concerns that were well known to the law society about the slowness in the payment of accounts and the inadequacy of the tariff. There is a committee dealing with the tariff. How far that committee had gone I do not know; I am not a member of it, so I cannot speak for that committee of the law society.

I know that some of the concerns Mr. Levy raised are being addressed. For example, I recall one in particular which had to do with the slowness in the payment of the accounts, the turnaround time. We have targeted to reduce, by the end of this year, the backlog in the payment of accounts from an average of 12 weeks, which it was at March 1981, to an average turnaround time of six weeks in March 1982. We base that on what we believe to be the equivalent turnaround time for doctors under the medicare plan. I think that would resolve at least one issue that Mr. Levy raised.

Mr. Breithaupt: I think that is a very important one.

Mr. McCourt: At this time of high interest, yes.

Mr. Breithaupt: It will reduce the demand for overdrafts.

Mr. McCourt: Yes.

Mr. Breithaupt: But with respect to how this

report may be dealt with or may have been dealt with at length by the legal aid committee of the law society, you would not particularly know, of your own experience, just how that might be coming along?

Mr. McCourt: It got caught up in two issues within legal aid, one being the adequacy or inadequacy of the tariff itself; and the second, the administration of the law society on the legal aid plan. There are problems in the processing of accounts which have to do with administrative difficulties.

I was present at a meeting at which Mr. Levy was also present and at which part of his report was discussed in the context of administrative structure as opposed to tariff changes. I do know that his report has been brought to the attention of the subcommittee dealing with amendments to the tariff, but how far they have gone I could not tell you, I am afraid.

Mr. Breithaupt: Thank you very much for those comments. I shall certainly pass on a copy of Hansard to Mr. Levy and I dare say he will be back in touch to advise me as to what progress may well have been made.

I would hope, of course, that there is a resolution of those particular administrative problems which I believe would probably be every bit as annoying as the size of the tariff in the first place, just as in the health care system, as we are told, many doctors are more upset with the delay in payment than they are with the size of the account, which if it came in on a more regular pattern they could live with.

I shall pass this on to Mr. Levy and I dare say I shall hear further from him.

Mr. Renwick: Mr. Chairman, this is the vote that has always somewhat defeated me and I think that is why we pay very little attention to it, apart from the legal aid content of it. I have a funny sense that it is much more important than we think it is.

Let me, first of all, just speak briefly about the legal aid funding question. The minister knows I have sat on the board of Riverdale Socio-Legal Services and I have been with it from its inception—indeed since before that time. I have always been interested in the community legal aid aspect of the work.

First, this is one area where I have no problem with the Attorney General. I back him up 100 per cent or more on the support he has provided for the legal aid system and his recognition of the need to develop the community clinic system throughout the province as a method of

meeting a very real need in a whole range of legal problems, which otherwise people either ignore because they cannot afford them, or which would not be dealt with at all in an effective way. So he has no problem with any tribute or support or anything he needs from me on this topic.

I think that on balance, considering the program, the ministry has been successful in getting the funds from the treasury board; within reason everyone could use more funds, but we have been doing quite well. Certainly I am not speaking about the tariff itself on the individual base but with respect to the community clinic part of it.

I am delighted to see that a number of aspects have been clarified and the administration has been established and so on following the Grange report and the work which has been done by the clinic funding committee and with particular tribute to the staff of that committee under Mary Jane Mossman. A great number of the real problems have been ironed out and dealt with, particularly the question of what range of income lawyers opting for community legal aid practice can reasonably anticipate. Not that they will make anywhere near the number of dollars that a competent lawyer might make in private practice, but for those who are attracted to that world, my assessment is that the number of dollars is sufficient to keep the standard of those who opt for that work at least in the lower range of something above average competence. That is my general assessment of it.

I would of course like to see them receive more by way of income, but we all would. I do not have a problem arguing that case. I think that progression, for lawyers who opt for legal aid community clinic work has reflected itself in the salary ranges payable to those engaged in the paralegal work in those clinics as well. So in a sense it has pulled the level of salary or income up to one which I think it is fair to say and that the board of directors of our clinic would say is reasonable and appropriate, always wishing that it could be somewhat more.

I am very much concerned that it keep pace at least with inflation plus a couple more percentage points, so that there is some gradual improvement. I would be very upset if whatever the inflation rate is it is not met in the budget put forward by your ministry next year. I would hope it would be one or two per cent higher so that it will retain in the system many of the people who have opted to spend an extended

period of time there and not have a situation where we start to get a large turnover in the staff of the clinics.

I was pleased that the minister referred to the Parkdale clinic because it was, first of all, the original one; secondly, in a funny way, by being able to do an end run around the law society, it broke through the original prejudice of the law society against community clinics.

The way it was able to break through is something which is now long gone: they got their funding from the federal government originally, with some other additional support, at a time when there were no funds available for clinics from the government here. But the pioneering work they did, together with the advent of this minister, meant the value of it was established, their role was clarified and the support it got led to what is now a very extensive network of community clinics across the province. It is not adequate by any means, but certainly this community legal services directory put out by the Ontario legal aid plan through the law society and so on indicates quite clearly a very formidable availability of the range of services provided by the community clinics across the province.

4:20 p.m.

I know that the clinic funding committee is looking at that geographic spread very closely in trying to extend it. I know that a new clinic has been opened, for example, in the Scarborough area. I know there is one just recently established in the area of Orillia and Simcoe East. That is true right across the province.

I have a question in my mind that certainly in the Metropolitan Toronto area, and probably in other larger centres, there is a degree of need for specialized clinics and perhaps the geographic need has militated against the establishment of very specialized clinics.

For example, in the Riverdale Socio-Legal Services clinic it would defeat the overall purpose of the clinic if we were to take on in that clinic workmen's compensation cases. We do not have the complement; we cannot afford the degree of specialization which is required to be expert at providing that service to those in very real need of that service. Therefore, of course, clinics such as the Injured Workers' Consultants and so on take a good deal of the burden. A goodly number of our cases are referred to that clinic. That is a great help.

I do hope in whatever discussions the Attorney General has about it that we do not lose sight of the need from time to time of specialist clinics of one kind or another.

An area in which I think, even though the jurisdiction is a federal one, nevertheless the availability of the service is very much needed in Ontario, would be a clinic which specialized in immigration matters, because there is immense demand for it. For reasons which I have never understood, anyone and his brother can hold himself out as an agent to act in immigration matters. There is no procedure for being appointed; there are no qualifications; there are no standards. I do not know the extent of it now but certainly over the years there have been substantial ripoffs of people in the ethnic communities who have paid fees which should never have been paid for that kind of service.

We have one member of the staff of RSLs who does a goodly amount of immigration work, but I do think, certainly in Metropolitan Toronto, there is a place for a specialist community legal aid clinic dealing with immigration matters where persons could go on those topics. It is a highly specialized field and the cases require an immense amount of follow-up. As any member knows who has attempted to assist someone to extract a relative from mainland China at the present time, the combination of after-you-Alphonse between the government policy of Canada and the government policy of China makes it almost impossible to accomplish.

I do not want to overemphasize it, but I do think there are a number of areas where specialized clinics would be extremely valuable and extremely helpful and must not be lost sight of, because they will lend an overall efficiency to the community clinic in a way which could not otherwise be accomplished.

We had a very significant concern for a while about the two aspects of the eligibility test. I know it comes under the Ministry of Community and Social Services, but I think the test arrangement—without intruding on that ministry—ultimately has to have the surveillance of the law society, and if necessary of your ministry, as to its adequacy.

About 18 or 20 months ago we heard via the grapevine that people were now being turned down for legal aid certificates because of the eligibility test. Our inquiry indicated a new test had been devised. For a period of time one was unable to get a copy of it, so you did not know what the changes were in the clinics. Finally, I called the ministry and I think more by default than anything else, they sent me one. I think I probably had the first one available to anyone.

What was happening, of course, was a clash

between the traditional view that parents are not responsible for the criminal offences of their children—there is no respondent superior involved in it. From the point of view of defence in a court on a criminal charge, there were a number of people aged 16 to 18 who had to appear in the provincial court's criminal jurisdiction and were turned down for legal aid certificates on the grounds their parents would not accept the responsibility for it.

I am not saying parents should or should not, except I ran into a number of situations—and I do not want to exaggerate the number. In a couple of situations the parents, for practical purposes, had to wash their hands of that kind of responsibility. Only by intervening on a couple of occasions with Mr. Lawson was it possible to make certain certificates were issued.

It had to do with the question, "The parents should be able to pay and therefore the near-adult was not going to be covered." I am not saying that was prevalent throughout the whole system, but I had some experience in that and I think it was very important.

My specific request would be to ask the law society to meet with the Ministry of Community and Social Services to review the test of eligibility presently in force. Then they could come to an agreement as to what the test of eligibility should be in relation to any conflict there may be with traditional legal principles, get it settled and get it clarified, and then make certain people are notified as soon as there is a change, so they can operate properly.

It had a backlash effect on the community clinics because people who were being refused legal aid certificates came to the community clinics. Our concern is that if you tighten up that eligibility test and exclude people from the legal aid system in its individual certificate form, the people have nowhere to go except to the clinics. The clinics have not got all that spare elbow room to pick up very much slack. So that backlash was of real concern to us.

I may say it appears to have disappeared and it is not a problem now. If it is, I will have no hesitation in raising it again.

There was one specific question. I think perhaps Mr. Carter was involved in it; I do not know who in your ministry was involved. It was a question of the TCLAS—the Toronto Community Legal Assistance Services—and what the salaries were going to be. There was some transition from last year to this year about the

salaries for the lawyers with Toronto community legal aid with the university-affiliated legal aid society. Does that make any sense?

4:30 p.m.

Mr. Carter: Not unless it refers to summer students. There has been some dialogue over the last 12 months about rates for summer students.

Mr. Renwick: Thank you very much. That is what it was. Did they meet with you?

Mr. Carter: They did not meet with me, but I have had dialogues with various officials, both of the plan and of various societies and clinics, regarding rates. I think last year we instituted a rate which was satisfactory to the students, to the societies and to the clinics. We have instituted a change for next year which will—without getting too technical—move summer students out of the experience program of the ministry into the direct funding by the plan.

Mr. Renwick: That is the point. And that problem is solved for next year, not as to dollars but as to the responsibility of the source of the fund?

Mr. Carter: That has been resolved. As a follow-up though to an earlier point you raised, when we consider rates of pay for clinic staff, particularly the paraprofessionals, we are very much aware of what is happening in the marketplace. When the submission comes in to the ministry we are cognizant of establishing comparable levels with what has been paid outside.

Your comments about ensuring inflation is met, et cetera; we are aware of that as a significant issue, otherwise there would be a turnover in the clinics which would be detrimental to the programs. It is something we consider very seriously.

Mr. Renwick: Mr. Minister, I do not believe I have any further comments on the actual legal aid plan. Perhaps other members do. If they do not, then I have a couple of other comments on this vote.

The Acting Chairman: Do any other members have comments on legal aid? I know I would like to make some at some time.

Thank you Mr. Renwick. Mr. Williams?

Mr. Williams: Mr. Chairman, I am equally concerned with the continuing success of the legal aid program. Like Mr. Renwick, I think the ministry has given excellent support to the outreach facilities of legal aid. We can see the

community clinics set up in and about the province, with the heavy emphasis within Metropolitan Toronto and other cosmopolitan areas.

Mr. Renwick was dealing in some part with costs and I wish to do that as well. But in so doing, it expands into another area of concern I have which needs to be addressed.

Mr. Minister, there may be clear evidence in your response that some of the uncertainties in the system are being addressed. You may have some specific evidence to make available to the members of the committee. I guess my concerns are heightened by the fact that if we look at the figures under vote 1402 dealing specifically with the Ontario legal aid plan—as I read the expenditure page 23—that the community legal services group funding has accelerated from just under \$3.3 million in the 1979-80 period to \$4.64 million in the 1980-81 period.

I suppose those figures disclose two things. One is the success of the program, as reflected by the number of clinics operating throughout the province that seem to be growing in number. I believe just within the past 12-month period four or five new clinics have been developed in different locations around the province.

What I really wanted to home in on though, Mr. Minister—and if we can get to the root of this problem, I think it will be of assistance to the people who are operating within the system, the staff people in the community legal aid service clinics. It will also put to rest the concerns some of the public has with regard to the operating parameters of those clinics.

There are three documents I would like to refer to if I might. The first was the final report of the standing committee on public accounts, December 1980. One of the concerns raised under the jurisdiction of the Ministry of the Attorney General with regard to the legal aid clinics and the specific area of concern was addressed as follows—I will quote if I might because I think it is the most expeditious way of getting to the heart of the concern I want to raise here this afternoon:

“The third area for examination was the financial management of legal aid community clinics by the legal aid plan and the law society as outlined in section 89 of the Provincial Auditor's report. Here, the major concerns were whether the extent of supervision of the clinics by the society and the ministry were sufficient to ensure accountability and whether the records kept of work done were sufficient to make a proper accounting possible.

“The historical tradition of the clinic inde-

pendence was noted, along with the concern of some members that their mandate from the Legislature to provide legal advice for the needy had been expanded by clinics to include a wide variety of social action and legal reform activities. The committee believes that the weakness in control and accountability noted by the auditor should be rectified. In particular, the committee recommends that formal criteria for eligibility for assistance from clinics be established by the law society—

Hon. Mr. McMurtry: Excuse me, what is that you are reading from again?

Mr. Williams: I am reading from the standing committee on public accounts final report, December 1980.

"That committee believes that the weakness in control and accountability noted by the auditor should be rectified. In particular, the committee recommends that formal criteria for eligibility for assistance from clinics be established by the law society, that the scope of audits of clinics be broadened, that purchasing procedures and records needed to safeguard fixed assets be developed and that the frequency of visits by fund administrators to clinics for evaluative purposes be increased."

This report was debated in the Legislature in October, Mr. Minister. While it deals with the matter of public accounts, it obviously intertwines with the ongoing administration of your ministry.

Tied in with that observation by the public accounts committee is the report that came forward in 1980 from the Law Society of Upper Canada itself. They too make reference to some extent to the status of independent community legal clinics. There was an indication there which confirms what I said earlier in my initial comments: funding had increased considerably and apparently justifiably because of the increasing number of clinics.

4:40 p.m.

The report indicated that as well as there being case-related services, the clinics continue to encourage access to legal services and services designated to promote the legal welfare of the communities they serve. But then the report goes on to state, "Such services include community legal education, preventive law and law reform activities."

That observation is one which gives me some concern, Mr. Minister, because it was my understanding that at the time this program was put into place it was for the express purpose of

providing legal services to the community at large for those people who could ill afford to seek out legal services on a solicitor-client, fee-paying basis. As a result of that very broad interpretation of the powers and authorities of the personnel in the legal aid clinics, it seems that many instances can be recounted where those who serve as legal aid officers in the community clinics are indeed providing more than legal advice to people within the community.

Clinic funding, as I understand it from the regulations, specifies that funding to community clinics refers to, "The payment of funds to a clinic to enable the clinic to provide legal services or paralegal services, or both, including activities reasonably designed to encourage access to such services or to further such services and services designed solely to promote the legal welfare of a community on a basis of other than a fee for service."

I suppose the way to make you appreciate my concern on this is to refer, by way of example, to a matter that was recently before our committee, that is, when we were dealing with your Metro Toronto police bill. On that occasion we had a number of witnesses before the committee, including a gentleman who, I gather, was a former member of the city of Toronto council, one Mr. Allan Sparrow. For reasons he cited to the committee on that occasion he had chosen to participate in and had taken a senior position, I gather, with a community organization called the Citizens' Independent Review of Police Activities.

Mr. Roy: A short visit like this and I deserve Williams.

Mr. Williams: You certainly do. It is worth the trip down from Ottawa, is it not? I am telling you, it is wonderful to be here for a day and it will make your day.

Mr. Roy: I am going to head right back.

Mr. Williams: Maybe you should because I will be going for more than the day. Just provoke me a little more. It is your good fortune that you came in at the right time.

On that occasion, when asked to identify the nature of this particular independent review group and those who had associated themselves with that organization, Mr. Sparrow indicated there were a number of organizations involved; one he cited was Metro Tenants Legal Services.

I am using this simply by way of illustration that this is one of the community legal-aid services which is clearly funded under the legal aid program.

When Mr. Sparrow was asked who was supporting this independently-struck organization, he indicated elsewhere in his testimony that most of the legal clinics in town, he expected, would be supporting his organization, one that had been set up to run parallel to and perhaps, from his point of view, in preference to the one that has been established under the bill.

From the evidence which came forward during those discussions and committee deliberations I do not think there was any question that there was some political motivation in the setting up of that committee out of genuine concern that our police bill would not accomplish what they felt had to be done, which was a legitimate concern. But it seems strange to me, Mr. Minister, that government-funded community service organizations would rather support some independently-established community organization than those which are formally recognized and supported by the government as established under the police bill; that they would rather associate themselves with an organization that has somewhat less status within the community and one which seems to be working in a way which, as far as some of their approaches to this matter are concerned, is not necessarily paralleling the procedures and methods that have been prescribed under the police act.

There have been other instances where the legal personnel with community organizations have become directly embroiled in community matters that have political overtones or undertones, where there are organizations or groups which have seen fit to be critical of government legislation or have initiated projects with the hope of bringing about new types of legislation.

It was my understanding that these offices were set up to give advice on existing legislation and to advise people within the community of their rights; not to go out into the community to advocate change and to criticize the existing laws but rather to interpret the laws as they exist to those people within the community. By taking on that broader activity, it touches very closely an area of what one could describe as political activism and I do not interpret the legal aid plan as providing that largess, Mr. Minister.

With respect, I have as strong a support as any other member of the committee for the concept of the community legal aid services, but there have been too many instances brought to my attention, and I have cited a couple of them to you this afternoon, which surely go beyond their scope of responsibility.

I know that the Law Society of Upper Canada was asked to review this situation and the funding committee was asked, I believe, to report back to you on this matter—if I can just find the reference in their report.

4:50 p.m.

The clinic funding committee, because of the criticism that had been raised in this area, as I understand it, had sent out working papers to all of the clinics asking for their input on criticism which had been raised in this area, so they could reassess their position and determine whether there had to be a further clarification of what the guidelines would be as far as their operating parameters were concerned.

I know this matter was of great concern to and was before the standing public accounts committee in February of last year. I think these very same issues were addressed and I do not think any satisfactory answers were forthcoming because of the ambiguities existing under regulations that seem to defy a simple solution to the problem. I am not necessarily being critical of these legal officers who are caught in this bind, because in some instances they themselves are not clear as to how far they can go in representing or providing legal services to the community.

I will just cite one last example, Mr. Minister, if I might, to further illustrate the point. I am looking at a copy of the morning newspaper, the Toronto Sun, dated August 13, 1981. The headline is "Effects Of Commission Cutback Feared." This has to do with the residential tenancy program. "Tenant Reps Cry Foul." And this is a quote from the newspaper and from a community legal worker:

"The 20 per cent provincial government budget cut in the Ontario Residential Tenancy Commission is 'an erosion of justice,' says Phyllis Woolley, a community legal worker with Metro Tenants Legal Services.

"The cutbacks mean a reduction in the number of commissioners who conduct rent review hearings and could ultimately mean higher rents, Woolley told a news conference yesterday."

With the greatest of respect, Mr. Minister, to my mind that particular community legal worker is straying beyond her jurisdiction and involving herself in a criticism of the system rather than restricting herself to the provision of legal advice in this same field to those who seek out her advice. It was obviously a criticism of the system as it exists rather than one dealing specifically with weaknesses that may exist within the legislation itself.

There, again, I see an example of someone straying away from the purpose for which they are performing their function under the guidelines which, I feel, have been established under regulation. I do say, again, that the regulations themselves seem to be somewhat vague on this point because they do not give clear enough definition to these legal officers with the community legal clinics to really operate comfortably within a clear set of guidelines.

In any event, Mr. Minister, I would be most interested in hearing from you as to what has transpired since these criticisms have arisen and since the regulations were amended to try to give clearer definition to the community legal workers as to their operating parameters. There have been other recent instances which I will not elaborate upon at the moment, pending your comments, but they do concern me because, as I say, in my mind they certainly go beyond their real duties and responsibilities. I would appreciate hearing from you at this point.

Hon. Mr. McMurtry: Mr. Williams, you are quite correct that the fundamental purpose of all of these clinics is, as you have pointed out, the delivery of legal services. It has been understood from the beginning that politically partisan activity would only subvert the clinic movement. The law society and the clinics themselves have been very sensitive about avoiding any allegation that they have engaged in politically partisan activity, because obviously that would probably have the result of eroding a great deal of support.

When it gets into an area such as law reform, as I understand it, the clinic funding committee has made it very clear that law reform is not an area that should occupy the time and the resources of the clinics, that there are other mechanisms for that. That is not to say that a lawyer or other person working in the clinic might not have suggestions from time to time that they would in good conscience pass on to the appropriate persons, with respect to practical difficulties. But it is difficult to draw a totally rigid line.

In my view—and I would be happy to hear the views of others, including the deputy director of the plan—when it comes to a Metro tenants' legal aid clinic, obviously that clinic should be cautious and discreet about involving themselves in what may quickly become a partisan political debate, because again it does undermine the perception which should be maintained, that these clinics are there to serve the public and not engage in partisan politics.

At the same time I have to say that if you are a lawyer working for a clinic which specializes in tenants' problems and there is some genuine concern about the resources that may be made available to the Residential Tenancy Commission, it is difficult for me to be overly critical of a statement to the effect that they have some concern with respect to these resources. Because after all, the accessibility to a rent review hearing is obviously a significant part of their concern. I only mention that as an illustration of a difficulty I have personally with drawing too rigid a line.

I agree with you in principle that the clinics should avoid being involved in political controversy when their responsibility is to deliver legal services, but I think we as a government might be making a mistake in maintaining the public confidence in what we are attempting to do if we were to draw an overly rigid line. Obviously a great deal of the issue relates to wise exercise of ordinary common sense.

If political activism became a pattern then, as I have indicated on other occasions, it would seriously undermine the public support for the clinic system and so obviously clinics have to be pretty careful about that type of activity.

5 p.m.

Mr. Williams: I appreciate your comments, Mr. Minister. Let me come back to the particular illustration I gave with regard to the Metro Toronto police bill.

If we are to believe what has been told to us by Mr. Sparrow, who took issue with the bill and the structuring as was envisaged under the bill and is now law, here we have the Metro Tenants Legal Services and the Neighbourhood Legal Services, organizations funded by this government, supporting a group that is different and set apart from a legally constituted body under statute—

Hon. Mr. McMurtry: Let me just be specific. I think in that particular case probably it was very unwise for clinics to involve themselves in that type of debate.

Mr. Williams: I would like to put it a little more strongly, Mr. Minister, because it seems to me that they are flouting the very laws we are making in this province if indeed they are telling people who are coming to them for legal advice not to go to the duly constituted government agency but go to some other citizens' organization—

Hon. Mr. McMurtry: I will make it very clear for the record: if it comes to my attention that

any of the clinics are doing that then I will complain to the law society. I agree with that. Perhaps I did not totally understand your point.

Bill 68 has been passed by this Legislature and if it comes to my attention that any of the clinics are advising people, regardless of any of the debates that occurred here, to subvert the intention of the Legislature in establishing this project, then I have to say that would be of concern to me.

Mr. Williams: Is there any way in which that can be followed up? Can some assurances be obtained that they understand this situation? Could some notice be sent out to these clinics that had aligned themselves publicly with this community organization to the point where—

Hon. Mr. McMurtry: My difficulty is that I have never been able to take Mr. Sparrow very seriously, but I guess perhaps others do.

Mr. Williams: It is testimony before a committee of this Legislature—and I think it is on the record and there were bulletins issued—that these people have publicly in writing declared themselves as being supportive of this organization. As I say, there was one—I am sorry, I thought I had a copy of the publication that was before us in the committee at the time—that I think named perhaps two or even three community legal services that were supportive of that organization.

Mr. Sparrow made it abundantly clear at that time as I read the testimony, and I have some of it before me, that these organizations were supporting his citizens' organization, that they would be working with them to report police brutality or whatever and that they would take it from there, rather than their reporting, as they should, to the organization now in place formally under this legislation.

Hon. Mr. McMurtry: Let me just go back a step because I may have even overstated a little bit what I intended to say. As established by this Legislature, Bill 68 obviously does not require any citizen to channel his complaints through any particular mechanism. In other words, obviously there is nothing illegal about the activities of Citizens' Independent Review of Police Activities.

Mr. Williams: No, of course not. I did not say there was.

Mr. Renwick: "Flouting the law" is a pretty inflammatory statement, Mr. Williams. If someone says to me, "You are flouting the law," that is equivalent to breaking the law.

I had a lesson in clarity one day when I

suggested that the police shooting in Toronto was a homicide and the Attorney General corrected me because I was using an inflammatory term, even though it was accurate. For you to say that the committee—I am not talking about legal aid clinics—that CIRPA is flouting the law is inflammatory language.

The Acting Chairman (Mr. MacQuarrie): I have you down, Mr. Renwick, for an appropriate rejoinder later.

Hon. Mr. McMurtry: Let me just make myself a little clearer. If I have a complaint against a member of the Metropolitan Toronto Police Force and I go to a legal aid clinic and a legal aid worker wants to follow the dictates of his conscience as far as giving the individual what he thinks is good advice goes, even though you and I might disagree with the quality of the advice I do not know that I would get too exercised about individual workers suggesting to people that they take that course of action—in other words, use CIRPA. I would be disappointed, but I do not know that I would be overly upset about it, satisfied as I am that the pilot project will prove itself as time goes on.

If a clinic by its actions indicated a commitment to undermine the credibility of the pilot project, that would concern me. I have already said exactly what I would do about it. I cannot be very precise because, again, I would be very upset because you have on the one hand a publicly-funded pilot project being undermined by another publicly-funded institution. But in the society in which we live I guess there are publicly-funded institutions which find themselves in an adversarial relationship from time to time.

It really becomes a question of whether or not there is a reasonable belief that the clinic is dedicating itself to partisan political activity as opposed to just an exercise of individual judgement as to how best serve the individual citizen who comes to the clinic for assistance. What I am saying in a rather awkward fashion is that I just cannot be too much of an absolutist about it. We are all members of this Legislature because we believe in a certain free-wheeling exchange of opinions that does often lead to disagreements, even among the most reasonable of people.

I think the basic principle is that these clinics are discouraged from behaving in such a manner that they are perceived to be acting in a partisan political fashion. I think the clinics, despite the fact they might not always have a

great deal of sympathy for the government—I do not know—have attempted to avoid creating that perception.

You mentioned CLEO, the community legal education group. They are funded for that purpose as I understand it and do a pretty good job. I think it was the decision of the legal aid funding committee that legal education in that sense was an important community object and certainly was very relevant to the delivery of legal services. I think you would agree with me that delivery of legal services certainly would include delivery of information about what the law is.

Mr. Williams: Of course.

Hon. Mr. McMurtry: So CLEO, I think, has done a very good job when it comes to legal education, from my own personal knowledge.

I would hesitate to ever take the position that any time someone from a legal aid office criticizes the government, that by itself is tantamount to engaging in partisan political activity. It is a question of common sense.

5:10 p.m.

Mr. Williams: I do not quarrel with that, Mr. Minister. I think Mr. Renwick is certainly missing the point and I want to make sure you are not missing the point.

Mr. Renwick: I have listened very carefully to every word you have said and I have got the point.

Mr. Williams: First of all, Mr. Renwick, you suggested I said the Citizens' Independent Review of Police Activities was flouting the law. I did not say that at all. I suggested the legal aid clinics were flouting the law if they acknowledged the existence of this new structure set up under law as a means of seeking redress against police brutality and instead referred people seeking this type of legal advice to the CIRPA organization. They were not making these people aware of what was available under our laws as a formal administrative tribunal, of what was available under law to seek redress of these grievances.

It is in that sense I suggest that if we, as a government, are funding these organizations—which we must and will continue to do—things should be made clear. Once a law has been established in my mind they have an obligation and a duty to advise this person whose rights as a citizen have been abused by the police and who wants to lodge a complaint.

I suggest it is in a sense flouting the law for the community legal service to say, "All right, we are going to send you to a community organiza-

tion called CIRPA and they will look after your needs there," and ignore the fact this new formal organization legally established under the police act exists. They are not giving them clear direction as to what their legal rights are, which is to go to a formally established tribunal set up by this government under law.

That is why I felt, with respect, the minister's first observations were correct; they should be directed. If they have questions about what type of redress they can seek, the citizens' complaint bureau has been set up. They can go to that agency and that is where they should go. They should not be redirected to some self-appointed community organization, no matter how well meaning that organization might be.

I made it abundantly clear this organization is in no way breaking any laws. It is in competition, because they disagree with the way in which this now formally structured and legal administrative tribunal has been set up. It would be wrong in my judgement for the legal aid community clinic to redirect them to these self-appointed agencies rather than to the government agency.

That is why I think, Mr. Minister, that should be seriously considered and proper direction should be given in that regard. I think it is in that sense a flouting of the law. It would be inappropriate because we are setting them up so they know what the laws of the land are and what legal rights they have for redress by going to the government-established agencies under your legislation.

Hon. Mr. McMurtry: My response, over and above what I have already said, would be that I would be very disappointed in any clinic that did not at least make it known to the person who came with the complaint that there was this route available—that is the Bill 68 route.

Whether or not the individual clinic worker wanted to advise the person with the complaint to take that route, as opposed to making it known it was available, is maybe something else again. I would hope they would, but I do not know that we can take the position that that has to be the advice.

Mr. Williams: At the very least, with respect, the availability of this government-established service you worked so hard to bring into being should be made clear to them. To avoid making that information available is doing a disservice in providing legal advice to the community.

Hon. Mr. McMurtry: I agree. I think they would be doing a disservice if they did not make it known that it was available.

Mr. Williams: Some constructive action should be taken to make sure that concern is addressed.

The other element of this concern I had, through you, Mr. Chairman, was with regard to the reports that had evidence there had been a considerable degree of laxity in the financial monitoring of these community legal aid clinics. There was one case cited where, in the number of years they had been in operation, there had only been one visitation, a spot audit, made in all of that time.

Hon. Mr. McMurtry: Mr. McCourt is here. He is familiar with what has happened since that report.

Mr. Williams: I want to make one further comment and then I will invite his response.

As I understand them, the regulations are what I consider to be a weakness in the system. They limit the performance ability of the clinical funding committee, which is responsible for these audits. The regulations say if the officials or the personnel in the clinic feel that information of a financial nature impedes upon the confidentiality existing between solicitor and client, they can deny that right of information to those who are attending to conduct the audit.

The onus rests with the people in the legal aid clinic rather than with those conducting the audit. There have been occasions, as I understand it, where information that has been sought has been denied under that fiduciary clause of privacy. It apparently has to some extent impeded their getting a full financial picture of what is going on in those particular clinics.

Before I expand further, perhaps Mr. McCourt would indicate whether there is some substance to the concern I have expressed or whether there is any variation from what I have said that makes my comments invalid in any way. I would be pleased to hear them, but this is my understanding of the situation.

Mr. McCourt: Mr. Chairman, it is quite true that at one time the clinics were concerned about auditors or other visiting staff from the legal aid plan going in to inspect clinic operations. The clinics were concerned about the potential breach of client confidentiality. I gather this has been resolved now.

In any case, where either a legal aid plan staff member or a public auditor whom we employ to do annual audits seeks information with regard

to the financial eligibility of a client or clients, the necessary proof is produced from the file without disclosing the whole contents of the file to the auditor or the legal aid plan staff member. In this way, the required information is made available and confidentiality is, we believe, maintained.

Mr. Williams: So the confidentiality is preserved vis-à-vis solicitor and client, but the financial information comes forward unimpeded.

Mr. McCourt: It was really one of those fine points of principle more than anything that really surfaced as a horrendous problem.

The second issue you addressed was the lack of frequency of visits. The clinic funding staff has been increased. There are always at least two people on the move around the province, either talking to existing clinics about procedures or helping them with their problems. In addition, we farm out to a firm of public auditors an annual audit which takes place in the spring of each year after the end of the fiscal year, usually during the months of May and June. All 39 clinics are audited and we are satisfied we are getting the information we need from those audits.

5:20 p.m.

Mr. Williams: So you feel that deficiency has been remedied through these adjustments?

Mr. McCourt: Yes, I feel that. I believe there was a follow-up raised by the Provincial Auditor's office on that report from which you are quoting. An official reply went into him and my understanding is he has been reassured.

Mr. Williams: Could you advise me as to what the qualifications are for the hiring of people who have commonly become known as paralegal advisers? What are the qualifications there? Are these people who have credentials that satisfy the law society?

Mr. McCourt: First of all, they are employees of the clinics, not of the law society. The clinics are independent community organizations. They hire and fire their own staff. I do not think the law society has yet seen itself as being in a position to lay down qualifications for the hiring of paralegals.

My understanding, however, is most of these people would have taken some courses in law at community colleges, law clerk type courses. Many of them I must say, especially in the older clinics, do their jobs purely by virtue of experience. But there are no specific, laid-down qualifications.

Mr. Williams: Does the funding provided under the legal aid plan include those paralegal workers or other people of that sort?

Mr. McCourt: It does.

Mr. Williams: Yet no real criteria are established as to what academic qualifications they must have in order to give legal advice?

Mr. McCourt: No.

Mr. Williams: I gather then, because of that you cannot say with certainty that any of them have had any academic training, whether it be at a community college, as you cited—

Mr. McCourt: I can say quickly a lot of them have, but I cannot say all of them have. Many of them have university degrees. Others come through community colleges. They come from a variety of backgrounds.

Mr. Williams: It does concern me, if they are holding themselves out as people who can give legal advice, that they would have had a minimal amount of legal training. While you are telling me that a good number of them do come after taking legal courses in the community colleges or wherever, I am wondering whether that really addresses the concern, if we do not know how many actually do have some academic qualifications?

I think my concern is whether it would be providing a disservice to the community if people seeking legal advice come to a legal aid community clinic, thinking they are getting advice from someone trained in the law or having at least a basic understanding of the law yet who, while holding themselves out as paralegals, have no academic training in the law at all. I think that would be a disservice to the citizen and perhaps to the integrity of the clinic itself.

Mr. McCourt: It was one of the fundamental points made by Mr. Justice Grange in his report on the clinic system. He made exactly the point you make: when they come to a place for legal advice, the public has a right to expect that they are getting advice from a legally trained person. He made it very clear it was essential that, for every such piece of advice given by a nonlawyer, that person be supervised by a lawyer.

That is what is happening. Every clinic has at least one lawyer on its staff responsible for the quality of advice given by whoever gives it in that clinic.

That was not always the case. When the Ontario government got into clinic funding, there were some few clinics in existence entirely staffed by nonlawyers. That is not the case now.

Mr. Williams: All right, if I could take that a step further. I am fully aware that adjustment was made, that there had to be a lawyer on staff. Your last observation gives me a little concern.

If they are there to supervise, I presume that would indicate they are not necessarily present when legal advice is being given. While they may be there to review as a follow-up what happened when a paralegal interviewed a citizen and advised him, I gather the interview is not actually carried out in the presence of that fully qualified, legally trained person. Rather it is his or her responsibility to review the file and see what type of legal advice has been given.

I am wondering whether that is really fully addressing the problem. I can appreciate that it has been a considerable improvement, but for a person untrained in the law to be giving off-the-cuff legal opinions to people without the advice of a lawyer there, on the premises, so to speak, at the time, I wonder whether a simple follow-up review by a lawyer at a later time is really satisfactory.

Mr. McCourt: Perhaps the acid test is that we do not get complaints from clients of clinics about the quality of the advice. I take the point you are making.

Mr. Williams: It concerns me. As you say, I think the integrity of the clinics is an issue and certainly the wellbeing of people in knowing they are getting solid legal advice when they go to these clinics.

With regard to the funding of the clinics, how far does the funding go to assist these clinics in their operation? It pays for the legal staff, it pays for the paralegals as designated, yet we do not have full say over the qualifications of persons hired as paralegals.

How much further does the funding to any clinic go? Does it also cover operating costs of the clinic?

Mr. McCourt: Yes, it pays for support staff and such matters as rent, telephone, the usual expenses of running an operation of that kind.

With regard to the point you make about the qualifications of the paralegals, while it is quite true to say that no one has laid down what those qualifications should be, the clinic funding staff which administers these funds on behalf of the law society is aware of such things as the experience of clinic workers and the salary component of the funds is distributed in accordance with years of experience.

There is some control over how much money

is made available to pay what level of experience. I grant you that is not the same as qualifications, but there is some control.

Mr. Williams: I mentioned at the outset that the funding to the community—

The Acting Chairman: Excuse me, Mr. Williams. Our schedule calls for us to complete the vote on this item today and we have about a half an hour left.

How much longer will you be, Mr. Williams? Mr. Renwick wishes to speak and I wonder if any of the others may want to.

Mr. Roy: I told you to put my name on the list, Mr. Chairman.

Mr. Williams: I should be about another five minutes.

Interjections.

Mr. Williams: The funding has gone from \$3.3 million to almost \$4.7 million. Could you indicate whether the bulk of that increased funding is going to meet increased operating costs, or has the bulk of it gone to the setting up of new clinics and funding by way of seed money additional clinics that have been set up in the past 12-month period?

Mr. McCourt: My recollection is that the bulk of that increase went towards rectifying a serious problem we had in the funding of clinics; namely, that both lawyers and paralegals were very badly paid in relation to the real world. I am sure that was the year in which we were able to catch up that problem and bring staff lawyers in clinics and community workers to a reasonable salary level.

5:30 p.m.

I could not tell you what proportion of the increase went on that as opposed to expansion of the system, but there would have been about four, possibly five new clinics added in that year as well. They usually cost, starting off, about \$50,000 a year. So I suppose \$200,000 of the increase went on new clinics, a certain proportion was used on this salary problem of which I spoke and the balance went for inflation and ongoing increased costs.

Mr. Williams: Thank you, Mr. McCourt. I could go on at length but there are other speakers.

I just want to conclude, Mr. Chairman, by saying that while I have been discussing this in a critical vein, I hope it has been constructive criticism because I support four community legal aid programs and I think it does a great service to the community. But if there are

weaknesses in the system that create problems for those providing the service because of uncertainties as to the extent of latitude they have in providing that service, if it creates the impression in the public mind that they are getting legal services that are not based on fully-qualified legal advice, that has to be made clear.

From what you say, Mr. McCourt, I believe the whole matter of supervision of their operations has been addressed in large measure, but I would certainly hope that the legal officers with these clinics do have some assistance from the ministry in recognizing what their guidelines are, albeit, as the minister has stated, there has to be some latitude expected and permitted. I think there are some areas—I guess I have cited one or two examples—where I feel they went well beyond that leniency in latitude that one would normally expect in providing legal services to the community at large.

But I hope, as I say, my comments have been in the nature of constructive criticism and if they have in any way contributed to improving the system it has been worth the debate, Mr. Minister.

The Acting Chairman: Just before you begin, Mr. Roy, I was wondering if there were any members of the committee with points to be raised with respect to any of the other items under this vote—financial services, personnel analysis and planning audit services and the rest. I hope to pass the entire vote today.

Mr. Renwick: I have one other matter that I would like the minister's comment on. I thought I was next on the list.

The Acting Chairman: When you are speaking with respect to item 1 you could possibly raise that as well.

Mr. Renwick: Yes, I can. As a matter of fact I think it is under item 1.

The Acting Chairman: You are on, but you have already spoken and—

Mr. Roy: If you do not mind, Jim, I will not be very long.

Mr. Renwick: No, I do not mind. It will probably give me an opportunity to cool down.

Mr. Roy: Mr. Chairman, the matter that I wish to raise has to do with clinics and involves the clinic in Ottawa which has been set up for—as compared to some of the Toronto clinics—a relatively short period of time.

When I got involved in correspondence with the Attorney General back in June 1981 my

concern was I felt that the distribution of funds by legal aid to these various clinics across Ontario was disproportionate. I pointed out, Mr. Chairman—I know you would be very interested in this—that in Ottawa, for instance, we have one clinic and that clinic had, at that time, a staff of two lawyers, two community legal workers and two secretaries to serve the whole Ottawa-Carleton population, which was close to half a million.

I understood at that time there were some 15 clinics in Metro Toronto and in one of those clinics alone—the oldest of course and the best known—Parkdale Community Legal Services, they had some 15 employees plus a number of students and they were serving a community of about 70,000. That was the first concern.

I quite understand that these clinics originated in Metro Toronto, that this is where the impetus started and often the initiative comes from local community groups which are funded from other sources. Very often they see legal aid to get funds. But I felt that was a serious problem and, given those circumstances, that the other areas of the province were really in a catch-up situation. I quite appreciate that there is great competition for funds in this area. I felt that, nevertheless, steps should be taken to remedy this disproportion.

The minister replied and said that these clinics in Toronto had had a head start and the priority now was to fund new clinics that were making application. It was mentioned by the minister that they were considering funding clinics in other areas of Ottawa-Carleton.

I wonder if someone can help me—whether in fact new clinics are being funded, if you have accepted new clinics in Ottawa for funding or if you are going to expand what I consider to be the very limited and overtaxed resources of that clinic serving Ottawa-Carleton.

Hon. Mr. McMurtry: Perhaps I could just make a preliminary observation. As I understand the way the system operates, a certain degree of initiative has to come from the community itself. I think you probably appreciate that.

I think this is wise, because we are more likely to be able to meet the existing needs with limited funding if the initiative does come from the community. I suppose with so many lawyers running around that area, it did not occur to anyone until recently that a legal aid clinic might be necessary, I do not know.

Mr. Roy: I guess there is no shortage of lawyers in Ottawa. As in every place else in the

province I do not think that is the problem. I guess—

Hon. Mr. McMurtry: I think there probably would have been a clinic and perhaps a larger clinic if there had been some initiative from the community to demonstrate the need. These clinics are all community oriented with community boards and what not, but in any event, Dermot, you can be much more precise than myself.

This is Mr. McCourt, the deputy director of the Ontario legal aid plan.

Mr. McCourt: The second clinic has just opened in Ottawa.

Mr. Roy: Which one is it?

Mr. McCourt: I am afraid I do not know the—

Mr. Roy: Is it Pinecrest-Queensway?

Mr. McCourt: Yes, I believe that is the name of it.

Mr. Roy: So there is a second clinic open.

Mr. McCourt: It has been funded, I think, as of October 1. It has not opened its doors because we have a training period before we let them loose.

Mr. Roy: You told the Attorney General in a letter dated June 12, 1981, that another clinic had made application to serve Ottawa. I thought there was another clinic—maybe not, the Pinecrest clinic would be serving west Ottawa.

Can you give me any details? What are we talking about concerning workers or—

Mr. McCourt: The conventional starting format is one lawyer, two community legal workers and a secretary. Now whether that was the model that was used in the Pinecrest one, I really could not say. I suspect so.

5:40 p.m.

Mr. Roy: It would be helpful and release the pressure by having another one somewhere else because the one now operating, which is right downtown, next to the courthouse, has become extremely overburdened.

You mention funding for a new clinic. Is there any additional funding for the existing clinic that you know of?

Mr. McCourt: Its case for additional funding, as with all the other 39 clinics, will be looked at between January and March of this coming year in preparation for the new fiscal year. I have no reason to think they would not get their share of inflationary increases.

Mr. Roy: I quite understand that the initiative must come locally, but given the catch-up

situation and the apparent expansion needed for such services, I would think there would be some acknowledgement that there is a disproportion at present in the funds given to some centres compared to others. That might be kept in mind.

Apart from the expense involved in printing material in both official languages, there is also the problem of adequate staff. Their contract requires that they give service in both official languages, which they should obviously be doing when serving an area like Ottawa-Carleton, and this requires a bilingual staff. There cannot be one staff for English and one for French. These people now appear in the criminal courts to give service in both French and English and will shortly do the same in the civil and family courts. Yet they are getting no additional help for that.

The minister, in his letter of last June, misunderstood me and thought I was talking about the bilingual bonuses—which I have never had much use for—which they give at the federal level. That is not what I had in mind. I am talking about problem one has in giving the sort of service the contract provides for without additional funding to provide the manpower necessary to do it.

The minister replied to the effect that we do not give additional moneys to other clinics because they give services in Cree, Portuguese, Italian, or anything else. But that is not the same thing. Our courts will operate in the two official languages and that is different from providing, say, an interpreter for certain areas of downtown Toronto or certain areas of the north where someone speaks a different language.

I felt that was a bit unfair. Not only are they underfunded to provide sufficient staff to serve that large population but they have the additional requirement of the serving in both languages. I would like to know that this is being kept in mind, as well as the fact that additional money is required for printing.

Mr. McCourt: I cannot be of too much help to you there. The decisions with regard to funding are made by the clinic funding committee, which is answerable directly to a convocation of the law society. The best I can do is to bring to that committee's attention your concerns, both with regard to the general level of funding and the particular needs because of the bilingual situation, and I shall do that.

Mr. Roy: I hope so. I do not want to be overly aggressive or critical but do want to make the

point that, given everything I have said about the strain on their manpower, their situation is special and should be looked at. It is just not a simple matter of providing an interpreter for someone who speaks Italian or Portuguese, for example. If someone wants his case to be carried out totally in French, they are required to do that.

Hon. Mr. McMurtry: I am sorry if I misunderstood your correspondence. I agree that special consideration should be given any clinics which provide services in court in the French language. I support what you say in that regard.

Mr. Roy: Those are the only comments I have. Thank you, Mr. Chairman.

Mr. Renwick: Mr. Chairman, I wanted to make a couple of points about legal aid. With great respect, I do not think Mr. Williams has any close association with the way in which the clinics have developed.

First of all, the framework established by the Grange committee was a first-class framework for the stage it was at and the regulations promulgated as a result of that answer the great bulk of the specific concerns Mr. Williams raised about the accounting process, the access process and the funding process. They spell it out, not only in reasonable detail but I know from our experience at Riverdale Socio-Legal Services that the purpose and intent of it are being carried out.

I can speak only for the one clinic, but I have no reason to believe it is not true of others that the professional quality of the services rendered is of a high standard and that the accounting for the funds which are made available is of a high standard.

I am not suggesting for a moment that when you have development of a community system there are not going to be teething problems in each new clinic as it is established. But guidelines are provided and the supervision by the clinic funding committee of these autonomous community bodies is done with the greatest of co-operation and in the spirit of making them work.

If Mr. Williams has any problem with those matters I would suggest he go and speak with the clinic funding committee staff, or with the clinic funding committee directly, because we are distanced by the ministry, the law society, the clinic funding committee and its staff, and so on. It is a long route, from this point, to an answer which will allay any concerns that you or others may raise in the committee because of a

lack of understanding of the day to day operations of the clinic system as it is developing.

Mr. Williams: Mr. Renwick, the issue came up by reason of a criticism by the Provincial Auditor. That is why I felt it came within our purview of discussion.

Mr. Renwick: I understand. The Provincial Auditor is also out of date now about this. The concerns of the Provincial Auditor I assume are now allayed. His criticism was coincident with the time when the structure was being reviewed and established.

I do not want, every year, to get into a vendetta that you want to continue about community legal aid clinics. My personal experience leads me to say I would not want you or any other member of the committee to walk away from here feeling any anxieties about what is happening.

Specifically, funding requirements are that: "The clinics shall be under the direction of a community board of directors. The clinic shall employ a solicitor in the work of the clinic. The personnel of the clinic shall be trained to a standard approved by the committee." The committee can answer questions about standards and so on. My experience is that it is functioning extremely well.

5:50 p.m.

I am somewhat concerned about the repeat of the attack on the question of what my clinic, Riverdale Socio-Legal Services, does. I just want everyone to understand it clearly. The committee has made submissions on the Residential Tenancies Act. The clinic has made submissions on Bill 68, I believe, and I believe they made them on Bill 7, with respect to matters which were of concern in the community.

My clinic was extremely upset about the financial cutbacks in the residential tenancy aspect because of the effect it will have on the community's ability to make use of the rent review process adequately. But the key concern is a specific part of the definition that I am as jealous to maintain as Mr. Williams is to destroy. That is the very clear statement that the funding refers to the services designed solely to promote the legal welfare of the community.

We consider that a very essential component of the work of the community legal aid clinics, in addition to its one-on-one, traditional solicitor-client advice and professional services. Those words are the key to the viability of the community system and in appearing before the Grange committee we emphasized how impor-

tant this aspect of the role was for the work of the clinic, in which I am pleased to participate.

We have not done this yet, but the Keating Channel, which allows the Don River to exit into the Toronto bay, is being dredged. The "dredgeate," in the language of the day, is being dumped on the spit at the foot of Leslie Street in my riding, which raises serious environmental concerns in the community.

This is a matter which has been dealt with in any number of reports. The government is also concerned about it and so is the community. It is sufficient to say that if we were to decide that it had to do with the legal welfare of the community, and if a community group were concerned and wanted to pursue it, we would have no hesitation, in the Riverdale Socio-Legal Services, in trying to advise that group of the community with respect to the legal implications of the complex laws relating to environmental protection.

If as in all likelihood we were not able to do it, we would not hesitate to go to the Canadian Environmental Law Association, which is a clinic funded in the same manner—although it may have other sources of funding—and which deals with legal services to individuals and groups who have environmental legal problems and the like.

Those outreach activities—and I give that as only one example; and we have not yet pursued it—are ones which I particularly am very jealous to protect. I will do everything I can to protect that as a very legitimate part of the whole concept of a community clinic.

I do not have great difficulty in saying that if a person who believed himself to have been subject to police brutality should come to any community legal aid clinic, such as my clinic, for example, I would consider it a dereliction of duty of that clinic if it did not advise that person on the operation of Bill 68 and the provisions with respect to it. I certainly would not say that they should not mention the other community facility, which is CIRPA, whatever that is, as a facility a person may wish to go to. It would be, as always, the obligation to provide the best possible advice and assistance to the solution of that client's problem.

I always have trouble with extreme cases and I always have trouble with a named individual when we are talking about autonomous community-based clinics. The Neighbourhood Legal Services and Metro Tenants Legal Services happen to do very good work. They also happen to have very dedicated boards of

directors. I believe the services provided by the staff of those clinics are of a very high calibre with respect to the questions which are involved.

As I say, I am not interested in a vendetta or in pursuing the other side of Mr. Williams' concern, but I want the record at least to be very clear about the kinds of things that Riverdale Socio-Legal Services does, the kinds of things which, in our discussions with the staff of the clinic funding committee, and prior to that with the Grange committee, we have generally outlined as what we believe to be the legitimate areas of the work of the committee and the community outreach part of it in relation to the legal welfare of the community as an essential ingredient to that matter.

I would not have spoken, other than I thought that some of those concerns should not be left in the—

The Acting Chairman: I was wondering, Mr. Renwick, if you could raise, as well, the additional question of—

Mr. Renwick: Oh, yes, one other question I have—

Mr. Williams: Just briefly, Mr. Chairman. Mr. Renwick suggested I used inflammatory language earlier. He interprets my inquiry and expressions of concern as a vendetta.

I can assure him, and I made it quite clear, that I was offering constructive criticism arising out of concerns that have been expressed to me by citizens within my community as well. I do not think that in any sense one can fairly interpret my right to ask questions on the committee about the operation of these clinics as a form of vendetta. I think it is regrettable he uses that term. If he suggests that I have been inflammatory, I think he has been equally so.

Mr. Renwick: I accept your disclaimer, Mr. Williams. I do not have a problem with it.

Mr. Attorney General, would you comment about the native court worker program?

Hon. Mr. McMurtry: I can get you information as to how many people we have employed in that program. The basic purpose is to assist native people to appreciate the process, to some extent, in so far as the courts are concerned. Their role is not to provide legal advice but to assist the native people in obtaining legal advice.

Mr. Renwick: I meant the details of how many people are involved in it and that kind of thing; how it functions; more the detail than the purpose of it.

Hon. Mr. McMurtry: Yes. Can you assist us as to how many people we have at the present time?

Mr. Carter: There are 26 court workers, Mr. Renwick.

Mr. Renwick: Are they generally spread geographically across the province?

Mr. Carter: That is correct, mainly in the north.

Mr. Renwick: How does one go about finding such a person?

Mr. Carter: Recruitment?

Mr. Renwick: No, are they readily accessible to the public? Are the public aware of the program, the aboriginal people?

Mr. Carter: Yes. I think the best way to respond is that the public are aware through the direct activity of the workers in the courts. In other words, they are visible in the courts and that is how the service is provided, on a firsthand basis. The bands, of course, are aware of the service so the natives can pick it up through the bands.

Mr. Renwick: Perhaps it might be helpful in that field if next year a synoptic report of that work were available to the committee. I do not want to delay us at this point.

Mr. G. I. Miller: Mr. Chairman, could I have a moment to go into that? Are Indians encouraged to participate or are they given priority at all? I believe at the Six Nations reservation at Brantford there are maybe one or two who are natives.

6 p.m.

Mr. Carter: That is right. Actually the administration, et cetera, is through the native community. The engagement of staff, for example, is directly in the native community.

Of course, an obvious point to be taken in consideration is the language factor, the ability to communicate directly with the native. That is why recruitment would be within the native community.

Hon. Mr. McMurtry: Mr. Chairman, before we adjourn, I wanted to ask Mr. Renwick a question about a matter that was raised the other day. That was your suggestion with respect to the operation of the ALERT machine and perhaps the breathalyser machine as well. I pursued that and it came back to me that there had been some suggestion they would certainly make these facilities available early next week, perhaps down at the forensic laboratory. I suggested that it would be my understanding

you had thought we might do it somewhere in the Legislature.

Mr. Renwick: Yes, that was my suggestion. Interjection.

Hon. Mr. McMurtry: I just wondered who might be interested, because I think they would prefer to do it—

Mr. Renwick: To ask them to bring a roadside tester here so we could see how it works.

Hon. Mr. McMurtry: One concern that was expressed was the extent to which this should or should not become a sort of media event. I just

wondered whether there was any interest in going down to this lab.

Mr. Renwick: I certainly would, personally, but I do not think very many members will go, whereas if it were here, I think more members would.

The Acting Chairman: Members of the committee, I propose to call the vote.

Item 1 agreed to.

Items 2 to 6, inclusive, agreed to.

Vote 1402 agreed to.

The committee adjourned at 6:02 p.m.

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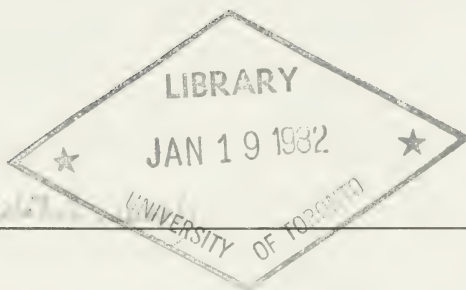
SPEAKERS IN THIS ISSUE

- Breithaupt, J. R. (Kitchener L)
- MacQuarrie, R. W. (Carleton East PC)
- McMurtry, Hon. R. R.; Attorney General (Eglinton PC)
- Miller, G. I. (Haldimand-Norfolk L)
- Renwick, J. A. (Riverdale NDP)
- Roy, A. J. (Ottawa East L)
- Treleaven, R. L.; Chairman (Oxford PC)
- Williams, J. (Oriole PC)

From the Ministry of the Attorney General:

- Carter, G. H., General Manager, Programs and Administrative Division
- Dick, A. R., Deputy Attorney General
- McCourt, D., Deputy Director, Ontario Legal Aid Plan





No. J-26

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney General

First Session, Thirty-Second Parliament
Friday, December 4, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, December 4, 1981

The committee met at 11:45 a.m. in room No. 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

The Vice-Chairman: We have a quorum. There are a couple of procedural matters before we proceed. We have substitutions in the Conservative caucus: Gordon Dean for Rene Piché, Yuri Shymko for Richard Treleaven, Howard Sheppard for Jim Gordon. Are there any substitutions from the other caucuses?

Mr. Kolyn: I am substituting for Mr. Mitchell. On vote 1403, guardian and trustee services:

The Vice-Chairman: This morning, for discussion purposes, we have the public trustee with us, the official guardian, and the accountant of the Supreme Court of Ontario. I have Mr. MacQuarrie down first. You were going to raise some questions with regard to interest rates, I believe.

Mr. MacQuarrie: Yes, and my question would apply equally to the public trustee and the Supreme Court accountant. What troubles me, as a result of complaints made by constituents, is the question—

The Vice-Chairman: Excuse me. Under vote 1403, we have item 1, official guardian—I think that is the one you want to speak to; item 2 is public trustee, and item 3 is Supreme Court of Ontario accountant. Perhaps you could deal with them in that order.

11:50 a.m.

Hon. Mr. McMurtry: Mr. Chairman, could I ask Mr. Swart if Mr. Renwick is going to be in this morning?

Mr. Swart: Yes, he will be in later to speak in the House on the Intergovernmental Affairs estimates.

Hon. Mr. McMurtry: Mr. Renwick suggested last week, and I think there was some interest among other members, about a demonstration involving the ALERT machine. On behalf of his caucus, Mr. Renwick expressed the view that they were of a mind to support our amendment to the Highway Traffic Act. It had been thought

it might be useful to have a little demonstration with the ALERT machine in the buildings.

Mr. Hampson of the Solicitor General's office is here, having made some preliminary arrangements for the lounge area in the dining room to be made available for the appropriate libations. He has also made arrangements for the machines to be available. It is a question of knowing the pleasure of the committee with respect to this demonstration.

Mr. Swart: Who are the individuals who have been set up?

Hon. Mr. McMurtry: We have had at least one volunteer, the member for Riverdale.

We took the suggestions seriously, as we understood them to be intended. We can arrange this for early next week, later in the day, say six o'clock, or whatever committee members wish.

What I would like to be able to do is get some idea, if possible, from the critics of the two opposition parties as to whether they would be inclined to support the passage of this legislation prior to Christmas, given the importance of the legislation with respect to public safety on the highways. Mr. Renwick indicated a little more familiarity with the ALERT machine might assist in that process.

Mr. Breithaupt: It does not seem likely that the bill will come before us on Tuesday, or do you think it will?

Hon. Mr. McMurtry: No.

Mr. Breithaupt: How can this be done when the committee adjourns Wednesday at one o'clock after the morning sitting? The legislation, if it does not otherwise come before us the following Tuesday, might be accommodated later in the week, but in any event I do not think it will be before then. How about Wednesday at one o'clock?

The Vice-Chairman: I understand the House is sitting at two o'clock on Wednesday afternoon.

Mr. Breithaupt: I was not aware the House was sitting Wednesday afternoon. However, that is as convenient a time as any.

The Vice-Chairman: It should be done, as the minister stated, at a time convenient to yourself and Mr. Renwick as critics for the two opposition

parties. You gentlemen have to be convinced. We will rely on your good judgement, if you are capable of it after having tried the—

Mr. Swart: I am not sure I am a great deal of help in this discussion, as a teetotaller. Also, Mr. Renwick is the critic. I think next Wednesday is an appropriate day. Mr. Minister, I cannot say any determination has been made with regard to support of the bill; I am simply for it myself, I may say. The critics will be making that determination along with caucus.

Mr. Breithaupt: Let us plan for next Wednesday, and then if it has to be changed we will do it.

Hon. Mr. McMurtry: So that is next Wednesday at one o'clock.

The Vice-Chairman: Sorry for the interruption, Mr. MacQuarrie. Would you like to deal with the official guardian specifically?

Mr. MacQuarrie: Mr. Chairman, I think the basic problem applies to item 3, possibly indirectly to the official guardian because, as I understand it, funds payable to the official guardian are turned over to the Supreme Court account in most cases.

The Vice-Chairman: Maybe you could direct your questions to the official guardian and, if necessary, they can be redirected.

Mr. Breithaupt: Perhaps we could just deal with the three particular portions of it. If someone does have a question one way or the other, I do not think that is going to upset anyone.

Mr. MacQuarrie: Mr. Chairman, my question to the minister is with respect to income derived from moneys held by the crown through various agencies in trust for members of the public, particularly infants. As members, we get complaints from parents and next of kin that interest rates in the market are a lot higher than interest rates provincial agencies are paying and, in essence, why can we not have a better engineered investment practice to get the maximum benefit for people on whose behalf funds are being held.

I know it is a complicated question with the volatile situation existing in the monetary market, but at the same time, during the past year or year and a half we have seen interest rates in the market go to very high points. We have constituents saying, "Look, the money that is being held for my child is earning only nine or 10 per cent," or whatever it might be. In some instances, it is less. "If I had the money in my hands, I could be putting it out for him or her at 18 or 20

per cent," or whatever the situation might be. There seems to be this discrepancy, and I just want to get some indication of provincial policy.

Hon. Mr. McMurtry: Mr. Chairman, obviously the matter has been of some concern to us, given high interest rates in the last while, interest rates that I do not think anybody predicted four or five years ago. Part of the problem for the Supreme Court accountant's office with respect to moneys, for example, that being paid into court for infants, has been that a number of investment decisions were made years ago on the basis of the best advice available in relation to the investment returns. As a result of those decisions that were made prior to the significant interest rate increases, a lot of the moneys were locked in for a period of years.

A finance committee is involved in these investment decisions. I know some decisions have been made recently that will alleviate the situation and produce better returns. Perhaps Mr. Carter, who has been directly involved in this as the general manager for the ministry, would like to add some particulars to what I have just stated.

Mr. Breithaupt: Mr. Chairman, perhaps before that I can just add my comments on this particular point. In the House this morning, Mr. Renwick came over to me and asked whether, because of his involvement in the debate in the House, I would speak on this point on his behalf as well because he, too, was concerned about the variety of comments made by solicitors and others who thought the returns were not as high as they could be at this time.

12 noon

This was a point my colleague the member for Windsor-Sandwich (Mr. Wrye) had raised, and there have been a number of other individuals who have commented on the rate of interest return. I believe the rate of return is in the range of about 10 to 10.5 per cent at this point.

One of course understands that if, as might often be the case, government bonds were entered into for a longer period of time when interest rates were somewhat lower, the discounted value of those bonds now, because of higher interest rates, would mean a substantial loss to an account.

If those securities were disposed of, you really would not be much further ahead buying something new because you would not be able to buy as much of it. That is all quite clear. It is recognized in addition that even through the

1960s and the early part of the 1970s, the traditional, historic interest rates of four per cent or so had worked effectively as a reasonable guideline for the purchase and the lending of money.

Now interest rates have come under such severe pressures that even what is supposed to be the best gilt-edged security, a Canada savings bond, is achieving 19.5 per cent, at least for the first year, and then a minimum guarantee of, I think, 10 per cent or 10.5 per cent for the balance of the term. Of course, it will be somewhat higher than that. Clearly, if one can get that for no risk, anybody else who has to invest in property or a business is going to be paying more, but we all know that.

The difficulty of the interest rate situation is to try to plan the kinds of securities that are going to be purchased. I would be interested in hearing how the investment committee operates, what the commitments are with respect to using these funds and how they are invested. Is it all in government securities or do they do it in the same way as insurance companies which have the opportunity of investing in securities, probably bonds, where interest rates have been paid and there is a good track record?

I think that must also include the length of term. How are you going now in investing? Are you getting down more to obligations for several years as opposed to the tradition of buying an issue of Dominion of Canada bonds and letting them sit? I am most interested in hearing how you are coping with what I acknowledge is a reasonably sudden problem, in particular in the long-term view you must take of your responsibilities for the assets you have.

Mr. MacQuarrie: As a supplementary to that, in terms of forms of investment, are special arrangements made with the banks that normally handle the accounts to attach an interest premium to them? Having had some experience at the municipal level, given the size of the account when a surplus of funds had come in after taxes, we were able to make a special arrangement with the bank to derive an extra premium on interest paid. This is the sort of thing I would like to find out about.

Mr. Dick: Mr. Chairman, may I make a general observation on the problem? I guess it is strange. It is one of the features of having been in this position some years ago. When I was last Deputy Attorney General about 1965, the yield was four per cent and the return coming through the system to the beneficiary was running around 1.5 to two per cent. The issue

was the same, only it was then discussed at the standing committee on public accounts and it was a regular subject every year. The observation I wanted to make—

Mr. Breithaupt: I was chairman of the public accounts committee then, so I know how it happened.

Mr. Dick: The point Mr. Breithaupt was making with respect to the bond market is the same, we have found, because I encountered this as Deputy Treasurer in the administration of our liquid reserves in the provincial accounts. The phenomenon with which we have been faced as the public trustee, the official guardian and the Supreme Court accountant's office, is exactly what all people have faced who have been investing money.

The long bonds of 10 and 12 years ago which were high-yield investments at that time were the popular ones in this kind of state administration. But with the advent of double-digit inflation, the long bond market vanished. The short-term interest rates were all investors would look at and as a result interest rates reversed. These officials who were investing in these substantial sums were in that position, as indeed was the Treasurer (Mr. F. S. Miller) in the investment of the provincial reserves.

It is against that background we are now looking at the revision of the system to permit us to meet a more realistic interest payment to our beneficiaries. Just before the experts speak about it, I want to observe that my concern is we will have to be very careful of this phenomenon we see now of the reversal of the long-term versus short-term interest rates.

We could move in a manner where we could set up a system which would be caught by the reversal of that, should those markets straighten out. We have to achieve a certain flexibility which will move with the times, looking at equity of the long investments for the people who administer a long period but at the same time looking at the shorter-term cash flow for those people. It is against that background I have been discussing it with Mr. Carter and the other officials.

Mr. Carter: Mr. Chairman, I think it is important to indicate the investment committee this very day is looking at a proposal which would tie the investment of funds for the Supreme Court accountant to short-term instruments, comparable exactly to today's marketplace and whatever interest rates are being paid

today. In effect, we are looking at investing funds individually at whatever is the current six-month rate.

Mr. Breithaupt: As a matter of interest, who are the members of the committee?

Mr. Carter: The members are Mr. McIntyre of the Treasury, Mr. McColl of the Treasury, and myself. Mr. Breithaupt, I think a couple of your observations are very important. The prudent investment philosophy that was attained, certainly five or 10 years ago, was long-term instruments. They paid excellent rates. The portfolio that obtains now for long-term instruments is 10 per cent. That is the rate that is being paid. Market conditions have changed dramatically, in particular since January 1 of this year.

The investment of funds, as the committee views it, is to get into the short-term instruments. However, a caveat is what would occur if there was a reversal or a change in trend. We are seeing a slight change in trend now.

In terms of the composition of the portfolio of the Supreme Court accountant, we have the accountant here to respond. I might say it is important to remember that families, the children in particular, from time to time want to draw on their funds. Therefore, there has to be some liquidity in the process to meet the needs of children. I am thinking of education, medical devices or treatment, this kind of thing.

Mr. Breithaupt: You must have some cushion which therefore may not attract the highest rate than would otherwise be an opportunity.

Mr. Carter: That is correct. We are trying to come to grips with that in terms of a six-month investment. It gives one much greater flexibility. The money turns over. One rolls it over and get it back into one's hands. If there is a short-term need, one can probably meet it.

We are concerned about the marketplace and what is happening there. While three months ago we were looking at figures of 20 to 21 per cent, we are now looking at figures of 15 per cent. I think I was informed this morning that in the United States rates dropped one full per cent yesterday.

Mr. Breithaupt: We may well see another happy Thursday in another week.

Mr. Carter: We wonder. As I say, the investment committee is actively looking at the problem. Right now we have a proposal before us which will modify the system, as I suggested, with the tying of moneys turned in to the court to a six-month rate.

Mr. Breithaupt: How long will it take you, in moving to that kind of a system, to digest what you have now, as it were?

Mr. Carter: If a decision was made, it could go into effect immediately. I would suggest the decision is going to be made soon.

12:10 p.m.

Mr. Breithaupt: We were going to hear from the accountant with respect to the general makeup of the portfolio. It would be interesting to get a sense of how the funds have been invested and their various proportions.

Mr. McGann: Mr. Chairman, my name is Mr. E. J. McGann. I am the accountant of the Supreme Court. The figure of 10 per cent which is now being paid on the individual infants' accounts is, if one looks at one particular criterion in measuring the value of an investment, the return on the investment itself. This 10 per cent is paid on the balance in the account in 1981. If the moneys were invested in court in 1975, for instance, the income in 1981 would be the equivalent of 16.2 per cent on the original investment.

The Vice-Chairman: How do you arrive at that?

Mr. McGann: It is compounded semi-annually. The total portfolio amounts to \$177 million par value and \$168 million in book value. It is made up principally of about 80 per cent in bonds of Ontario Hydro, about three per cent in bonds of the province of Ontario and the rest in bonds of the government of Canada.

Mr. Breithaupt: It is an entirely bond portfolio?

Mr. McGann: It is a bond portfolio in short term.

Mr. Breithaupt: What is the longest-term security you now have?

Mr. McGann: It is the year 2009.

The Vice-Chairman: What statutory authority do you have to be more flexible in your investment portfolio? Is there any flexibility, or are you rigidly locked into bond investment?

Mr. McGann: There is no flexibility. I am governed by the Finance Act of the Treasurer of Ontario. As to the moneys which can be invested, I can invest as the Treasurer of Ontario invests.

Mr. Breithaupt: That is what he can do.

Mr. McGann: That is what he can do, although I do see an amendment to his act in 1973 which gives him some flexibility.

Mr. Breithaupt: To follow through on Mr. Williams's point, it would seem to me some consideration might well be given to having a portion of that investment, as an opportunity, in first-class corporate bonds.

I realize you are not going to get into playing the penny stock market with these funds. Insurance companies have the basket clause available to them for a variety of investments which they do not really even use up. They have 10 per cent, and I think what they do averages out to five or six per cent. It may be something to consider.

As to the alternative of having the practice by which you invest at least match the opportunities which are available to the Treasurer, I do not know whether the finance committee has considered that step. It may do so, of course, with the availability of securities at effectively a very good interest rate which are now all in the governmental field. You may not have to ponder that very much. Have you given some consideration to shifting at least a portion of the bond investments into some corporate bonds, or do you feel you would at least have the authority to do so if you thought it was a good idea?

Mr. Dick: Mr. Chairman, the Treasurer from time to time has considered the investment aspects of the Trustee Act, which are very similar to these, as well as these. The major consideration is that all the things that are referred to and in which Mr. McGann can invest, are guaranteed. When you move to the corporate security field you are looking at what to any investor would be very secure investments, but they are lacking the absolute finality of a guarantee as to the repayment of the capital.

Mr. Breithaupt: You could buy the 26 per cent of Suncor but somehow I do not think you are likely to do that, at least not with these funds.

Mr. Dick: That of course was done under the special legislation relevant to the Ontario Energy Corporation.

Mr. McGann has referred to the provisions of the Financial Administration Act. The principle I do not believe the Treasurer has yet considered moving, although he has considered the problem, is that for the matters that are generally covered by this—the types of investments that are looked after on behalf of the official guardian and his infants and the public trustee and his clients—we felt it was absolutely imper-

ative the capital should be unimpaired and should be available. There would be no possible excuse for having somebody in a position where that could be eroded. Therefore we are always looking at the guarantee.

I mention that as background and the reason it is as it is at the moment. Whether consideration should be given to enlarging that is of course a matter of policy for the committee and the government.

Mr. MacQuarrie: Mr. McGann, you indicated about 80 per cent of your portfolio was in Ontario Hydro. I did not get the other figures, the province of Ontario bonds.

Mr. McGann: Five per cent in Ontario bonds—

Mr. MacQuarrie: And the balance in Canadian?

Mr. McGann: Yes, in Canadian bonds.

Mr. MacQuarrie: If I understood earlier comments correctly, you endeavoured to maintain a certain measure of liquidity in the account. Is this in the form of moneys on deposit or guaranteed investment certificates? What is the mechanism whereby this liquidity is maintained.

Mr. McGann: I have a constant flow of money in and out of court. It approximates \$1 million per week in and out of court. This is non-infant moneys.

Mr. Breithaupt: Are you allowed to keep what you make on that, as it were—not personally, I understand, but as far as the system is concerned, as a revenue to the public trustee?

Mr. McGann: Public trustee?

Mr. Breithaupt: I am sorry, to the Supreme Court accountant.

Mr. McGann: No. I do have a small surplus which amounts to approximately two and a half per cent of the portfolio. One does not see what I make. The total revenue I generate and the net revenue that is available for interest is credited to the various accounts.

Mr. Andrewes: Is it pro rata?

Mr. McGann: Of course, depending on the amount in the account.

Mr. MacQuarrie: But before the moneys are

put out in long-term investments, I would assume they are held by you in an interest-bearing bank account?

Mr. McGann: I will normally put my surplus available funds in 30-day notes.

Mr. MacQuarrie: Do you buy Treasury notes? Or do you—

Mr. McGann: If the return is greater, then I would.

Mr. MacQuarrie: Do you have any special arrangement with your bankers?

Mr. McGann: No.

Mr. MacQuarrie: Any premiums on interest or anything like that?

Mr. McGann: I usually get over the posted rate because I deal in size.

Mr. MacQuarrie: That is in volume and size?

Mr. McGann: Yes.

Mr. MacQuarrie: What sort of charges do you make against the individual accounts as far as administration goes?

Mr. McGann: None whatsoever.

12:20 p.m.

Mr. MacQuarrie: No charge for administration?

Mr. McGann: No charge other than my own overhead, which approximates \$220,000 a year.

Mr. MacQuarrie: And what would that break down to in terms of percentage—percentage of moneys in and moneys out?

Mr. McGann: I think you would have to look at it as a percentage of the revenue or as a percentage of the total portfolio.

Mr. MacQuarrie: I know most trust companies, in their assessing, just look at moneys in and moneys out and make a—

Mr. McGann: That would be about 1.5 per cent of the net revenue or an infinitesimal amount on the portfolio itself.

Mr. MacQuarrie: It does not seem excessive by any means.

Mr. Breithaupt: No. It seems to me a pretty efficient operation, considering the administration and particularly the volume of accounts that must be handled, together with the crediting of the variety of interest payments to the accounts.

Mr. Kolyn: You stated you have some bonds that were locked in until 2009. With whom?

Mr. McGann: That would be Ontario Hydro.

Mr. Breithaupt: That is 1979 Hydro, or is it 1974 25-year bonds?

Mr. McGann: Twenty-five means 1979.

Mr. Breithaupt: As a matter of interest, what is the interest rate on those bonds, the 2009 series? Do you recall offhand?

Mr. McGann: I think 13.625 per cent.

Mr. Breithaupt: Which for a commitment in 1975 was a pretty good expectation of return.

Mr. MacQuarrie: Oh, yes.

Mr. Breithaupt: You could never hope for anything better than that.

Mr. Andrewes: Do you determine the wisdom of the investment yourself or is there a panel or some guideline?

Mr. McGann: In the past, the manager of the public debt has made the actual trades. He usually does it after consultation with me and the trades are put before the finance committee for approval.

Mr. Breithaupt: How does this finance committee you were referring to earlier take it from there?

Mr. Carter: I think it might be important if I just read from the statute; I will abbreviate. "The finance committee has the control and management of the money in court and the securities in which it is invested and the investment of such money." That is the mandate of the investment committee. As I mentioned earlier, the chairman is from Treasury and, as a Treasury member, is constantly in touch with what is happening in the marketplace. So there is a direct link there. I think it is important, as Mr. McGann was noting, that the last long-term instrument was purchased—Mr. McGann, was it in 1975?

Mr. McGann: About 1979.

Mr. Carter: The pattern now of course is to buy the short-term instruments, which I guess invariably are a point or two off the highest rate in the marketplace.

Mr. Breithaupt: But you require that for some liquidity, and also for some review, depending upon—

Mr. Carter: Yes.

Mr. Breithaupt:—how things might change, so that is understandable.

Mr. Carter: But the investment committee is definitely taking the position that it will henceforth set up a system that places all money in short-term instruments.

Mr. Breithaupt: What instruments will you effectively be buying? When we look at the changes in the bond market and that pattern of investment, which really has been 100 per cent

in bonds through a variety of maturities, what kinds of investments are you expecting to get into? Would it be effectively a Treasury bill operation you are going to be running?

Mr. Carter: I think for the moment, yes; probably 90-day notes and roll them over, in effect, to another term. We have been looking at what we call six-month-type GICs, guaranteed income certificates, as probably being the best bet right now.

Mr. Breithaupt: Although, with your expertise and the facilities available to you, the opportunity simply to roll over a three-month Treasury bill is, on balance, probably as good a thing as you would get anyway.

Mr. Carter: That is right.

Mr. MacQuarrie: Or buying some of those Ontario Hydro bonds at a discount.

Mr. Breithaupt: If you look at the long term, I suppose you could do that.

Mr. Andrewes: I don't ask this question facetiously, but if you are going to go in the direction of short-term instruments, what function will the investment committee serve? Does it not become a more or less routine book entry? When one comes due it is reinvested?

Mr. Carter: It becomes a routine proposition between the accountant and Treasury in rolling over notes, et cetera, but the role of the committee has to be one of reviewing the strategy that has been mentioned here. If market conditions change, which they could, and as they did 12 to 18 months ago, the committee will have to take it upon itself to look at the strategy and, I would think, revise it. I doubt it, but rates could drop further, and then we would have to look at the strategy of 90-day or six-month notes.

We have to be concerned about the prudence of how we invest this money to get the best return. Today we think 90-day notes or six-month notes are the best bet. That could change in three or four months. The committee is now meeting very frequently because of changing market conditions.

Mr. Breithaupt: I realize you can't answer about a matter of policy, but the Deputy Attorney General might have a view on it. Do you see the usefulness of having persons outside the public service involved in the investment committee itself? In other words, could it be a five-person committee with a banker or an investment broker or whatever? Or do you find this present circumstance, with the availability

of the expertise that you probably can readily get from a variety of people, to be satisfactory? Have you given any thought to somewhat of an expansion of the committee in a formal way, or do you find it is satisfactory now?

Mr. Dick: We have looked at it and, as a short answer, we feel it is satisfactory now. Where we have gone to an outside group to advise us is where there has been an opportunity to invest in a broader spectrum of securities, such as the Ontario Municipal Employees' Retirement System. This is really an agency administered by representatives of municipalities and employees in the group served. They have a much broader interest or investment base. They administer it themselves and report to the government through the Treasurer, but we don't play an active role.

They have an investment committee. It was Bob McIntosh, the president of the Canadian Bankers' Association—previously with the Bank of Nova Scotia—who chaired that. There were outsiders and some insiders; they looked after and advised the OMERS. In the case of these agencies, we have always rather favoured having people who are in continuing positions of responsibility to answer to the government, which in turn has the responsibility for the people we represent—the infants and public trustee individuals and so on.

Mr. Breithaupt: Do you feel this is a more particular relationship than the broader one which the pension funds might grow into?

Mr. Dick: That is true. The pension funds are serving the municipalities and employees of municipalities, and it is to them that they have to respond, so it is a broader group. In our case we are responding to people who cannot really speak for themselves, to use that term, where we are really acting as a trustee in the long term. In that context we thought it would be better to have individuals who are continuing in office and who are available as civil servants to answer for that responsibility through their minister, rather than outsiders who may have more difficulty in a continuing thing like that. This was the sort of choice they made.

12:30 p.m.

Mr. MacQuarrie: Just another general question: I notice the Supreme Court accountant, Mr. McGann, has indicated that he has recoveries out of the funds administered to cover off a portion of the administrative charges; I just wonder what sort of recoveries there are with

respect to the other two offices since I do not see it in terms of the briefing material that we received.

Mr. Breithaupt: We have Mr. Perry with us as the official guardian. Perhaps it would be appropriate for him to explain the situation. I have several questions for Mr. Perry.

The Vice-Chairman: Have we finished with Mr. McGann?

Mr. Breithaupt: I believe so. Thank you, Mr. McGann.

The Vice-Chairman: Mr. Perry, would you like to come forward, sir? Did you hear the question that was asked?

Mr. Perry: Mr. MacQuarrie, would you repeat the question?

Mr. MacQuarrie: My question in essence was: Are there any recoveries made by your office in respect of the services that you provide and, if so, the amount of the recoveries? I am trying to find them here in the background material and I do not see it.

Mr. Perry: We do have a variety of revenue sources. First of all, the official guardian, as you know, protects the rights of people with legal disabilities, primarily in two areas, litigious matters, which involves the interests of minors and others with legal disabilities, and estates.

In those matters we do obtain costs awarded by the court and those costs are at the discretion of the court. The rules of the court provide that, subject to the court's discretion, the official guardian gets his costs in any event of the cause, in other words whether he represents a winning or losing cause with respect to the rights of the people he represents.

Mr. Breithaupt: That is the usual result, is it?

Mr. Perry: The usual result is that the official guardian is awarded his costs. In the judicial system, those costs are what we usually refer to as party and party costs, and those are costs paid out of the estate to the credit of the official guardian. They may be fixed or there may be a direction that those costs be taxed by a taxing officer.

If the matter was initiated outside Toronto, the official guardian then has the responsibility to compensate his agent. These are lawyers appointed by the government to represent the official guardian in matters outside the city of Toronto. We compensate those agents on the basis of the disbursements plus three fifths of the costs. The net result is a very nominal

amount paid to the office of the official guardian to enable him to continue to provide the services he provides.

In matrimonial causes, the official guardian is required to carry out an investigation and file a report with the court. In divorce and custody actions with respect to the general welfare of children, we receive a nominal \$50 from the petitioner in a divorce or the applicant in a custody matter. Of course this \$50 does not enable us to completely compensate the people who provide the investigative services on our behalf. Although it is a revenue, it is not a significant revenue in view of the costs for the service provided.

Those are the main revenue sources.

Mr. Breithaupt: What does that revenue, including the net amount you have left over from dealing with agents, bring into your office compared with its costs? On what page is that referred to?

Mr. Perry: It is referred to on page 36. The actual expenditure is noted in the first column, the 1980-81 estimate is in the second column, and 1981-82 is in the third column.

Mr. Breithaupt: With respect to those estimates, as to your expenditures, how does that match up with the revenue which, while it is received into the general revenue fund of the province, might be thought to have some effective balancing effect on the balancing amount? Can you tell us that? That is what you are going to spend; we are wondering what you are taking in.

Mr. Perry: I referred to the matrimonial cause revenue, which is the \$50 we get from the courts. The revenue for the fiscal year is approximately \$650,000 and we received an additional \$200,000 costs. Our revenue is approximately \$750,000.

Mr. Breithaupt: You said \$650,000 and \$200,000.

Mr. Perry: The \$200,000 was the costs we received from litigation on primary estate matters.

Mr. Breithaupt: So that is in the range of \$900,000 or so, and your expenditures will be about \$3,400,000.

Mr. Perry: That is right.

Mr. Breithaupt: So you are recovering about a quarter of the administration of that office. Is that appropriate? It may not be appropriate to ask you whether that is appropriate; I realize that. We have to take that as a fact and perhaps

return to the Deputy Attorney General for his comments on why a quarter of the costs in this area are recovered, as opposed to some system that might well see, in these times, a greater attempt to balance the expenditures, which can be entirely dependent upon the assets that have been dealt with, and therefore perhaps a little more should be recovered.

The Vice-Chairman: Before Mr. Dick answers the question, I remind all members of the committee it was agreed at the outset of the estimates that we would spend a half hour on vote 1403. I raise that not for the purpose of terminating discussion on the vote, but I remind you we have been going about 45 minutes on this. We do need to do crown legal services for an hour today and then an hour next day, but I have no objection to continuing in this vein, as long as you realize we are running out of time.

Mr. Breithaupt: I have just one other thing to raise with the official guardian. I recognize we had a somewhat later start today because of other matters. I am sure we will be able—

The Vice-Chairman: I do not want to impede the discussion on this item. I just do not want anyone being critical of the fact you might have been denied time on crown legal services. Let Mr. Dick answer the question now, if he remembers what it was.

Mr. Dick: Mr. Chairman, we are content at this time to receive the take that would be paid to a solicitor acting on behalf of the matters. As Lloyd mentioned, we get the party and party costs, as do other litigants, and that is the base upon which we feel it is appropriate the government should be reimbursed for the services to the infant, in those litigious matters.

In the other areas, such as fees for services, these are reviewed from time to time. I have not been conscious of any feeling the present take was disproportionate in the context of the type of estates administered and the type of cash flow we had from the other things.

Mr. Breithaupt: It may be that the matrimonial report, when you look at the revenue it brings in of \$200,000 or so, is something to reconsider as a source of revenue. I realize as you look through the entire system that where we seem to be adding \$1 here and \$50 there, or whatever, it may prove to be more and more necessary as other sources of revenue are simply not sufficient. It is a user fee of sorts. In this instance I suppose it becomes a user fee, doesn't it?

12:40 p.m.

Mr. MacQuarrie: I would be inclined to suggest that a recommendation might be that the representatives of the investment committee and the ministry look at the prospects of possibly deriving a higher measure of revenue from these activities.

Mr. Perry: Mr. Chairman, may I indicate that matter is now under serious review, that is the amount received for the reports. We anticipate that review will result in bringing in recommendations.

Mr. Breithaupt: What is the total amount of assets that you administer? Perhaps that might help. Does a figure come to mind as to the approximate value?

Mr. Perry: About \$168 million. I was going to say 14,500 but it was approximately 14,000.

Mr. Breithaupt: That is accounts.

Mr. Perry: Accounts, that is right. You might be interested in the fact that in one year there would be approximately 1,500 applications for payment out to assist with minors' maintenance et cetera. That is part of the accountant's problem, the reason he has to retain a considerable degree of good cash flow to meet those applications.

It may be helpful to understand with respect to our revenue: I referred to the \$200,000 costs we received. The costs the official guardian is awarded are related to the costs paid to other parties in matters, and there is really not very much we can do with respect to—

Mr. Breithaupt: I recognized the comment, of course, that Mr. Dick had made, that you are recovering what a solicitor would recover, and that has been seen to be appropriate as a matter of policy.

There is one other theme I would like to raise with Mr. Perry, and that is with respect to the child representation program which is administered by the official guardian. Over recent years we have seen a variety of specialist designations being developed among the various practitioners, particularly before the courts but otherwise as well.

There is a course that operates for three days or so with respect to this child program. It is offered by this office. I understand solicitors who complete that program are placed on a panel, along with other similarly trained lawyers. These are the lawyers who are then eligible to act for children in Child Welfare Act matters.

Lately there has been some concern with respect to the competence of some persons who hold themselves out now as involved and able to

act with respect to children. I suppose those concerns exist in a variety of the other areas of the law, depending upon the ability to pass a course. Whether or not that brings complete knowledge is another point, but there seems to be some sort of dilemma which is presented to the lawyers when they are confronted with a conflict between the traditional obligation of the client and the result the lawyer believes to be in his client's best interests.

I am wondering if the official guardian has any view with respect to extending this child representation program into matters other than the Child Welfare Act as such. If that were the case, one might see a somewhat broadening expertise in the representation of children, not only in matrimonial matters but also in matters of succession duty, estates and such. Do you see the need for some greater expansion, or is it perhaps not your function to try to involve areas beyond the Child Welfare Act scene?

Mr. Perry: That represents some serious—

Hon. Mr. McMurtry: I was just going to say that I thought the official guardian's involvement went far beyond child welfare legislation now, as I am sure you appreciate.

Mr. Breithaupt: It is a much broader theme. I was just wondering how Mr. Perry saw the course and the appropriateness of it, and whether things are developing so that a good standard of representation for children is being sensed in the legal profession.

Mr. Perry: Since the 1880s, as has been indicated, the official guardian has had a very broad jurisdiction to represent the legal rights of people with legal disabilities outside the independent representation of children in personal matters, which is essentially a recent innovation.

With respect to the independent representation program, when the ministry initiated the program, a decision was made to utilize members of the private bar in a role that might otherwise have been served by the official guardian directly and solely, as his responsibility in other matters is done. We do have 550 members of the private bar involved in the program. The course is an orientation workshop program, because you obviously cannot train lawyers how to represent children in a three-day course.

Mr. Breithaupt: It is to help them bring the tools they will need together, and they take it from there.

Mr. Perry: The best we can do is create areas of awareness and sensitivity with respect to how you represent a child. The role of my office, as we see it, is to supervise that program and do the best we can through the development of community-oriented committees to monitor the performance of the lawyers who represent children in those matters.

To answer briefly your broader question, I am quite content for the minute, speaking on a nonpolicy level. My view is simply that at present I am convinced the administration of justice is being well served by the representation of children in child welfare matters through our independent representation program. The official guardian continues his traditional role of representing children in other areas.

Mr. Breithaupt: Would you have any relationship, say, with the judges, either through the provincial court, family division, or through the Supreme Court on an ongoing basis so that you get some sort of feedback as to how they sense children are being represented, realizing that an individual lawyer may or may not be entirely able to do that task? Is there a sense among the judges that this program is leading to better results and an improved relationship in the cases so that they feel good about the developments?

Mr. Perry: Needless to say, I would not presume to speak on behalf of the judiciary.

The director of the independent representation program in child welfare matters, Alan Wolfish, is a member of the York bench and bar committee, and that group explores the reactions and responses of the bench and the bar to the program.

Mr. Breithaupt: I am glad to hear that is the case. I think that is obviously an excellent forum where these things can be discussed if there should be a concern.

12:50 p.m.

Mr. Perry: With respect to that forum, no major complaint has been brought to my attention. Certainly it is a very vocal group and a very competent and responsible group. If there are any objections to the program, certainly they would have been brought to my attention. In addition to that, we participate on a regular basis at provincial court, family division, seminars. We attend their annual meetings, et cetera, to get feedback.

Mr. Breithaupt: So that would be another opportunity if they were any concerns.

Mr. Perry: In addition to that, we have an ongoing close relationship with the chief judge of the provincial court, family division. We do everything we can to keep the lines of communication open between my office, the judiciary and the profession.

Mr. Breithaupt: How often is the program offered, and how many lawyers ordinarily take advantage of the program?

Mr. Perry: It is a matter of providing for the need.

Mr. Breithaupt: In the so-called workshop program?

Mr. Perry: Yes. We have more than 550 members of the bar involved on panels, and they have all taken the three-day course. We are now initiating, within the limited resources we have for such programs, a new series of programs in the first part of the year. We are also initiating a series of what we call mini-workshops to update the members of the panel with respect to developments in the field and to get their responses and reactions to the program to date.

Mr. Breithaupt: Where will those opportunities be offered across the province?

Mr. Perry: With respect to the new programs for the major courses, we have designated four areas.

Mr. Breithaupt: Four centres?

Mr. Perry: Four centres, settling on the areas where we need more panel members. Then we will have four regional mini-workshop programs, which again will be in the regions that will serve the maximum number of our panels.

The Vice-Chairman: I note that Mr. McComiskey, the public trustee, has been sitting chafing at the bit in anticipation that he might be asked some questions, because the estimates in his office relate cost-wise to more than half the cost of the guardian and trustee services program. But I gather he is operating so efficiently in his office that he will not be privileged to be questioned on this set of estimates.

Mr. Breithaupt: Indeed, Mr. Chairman, I would love to have Mr. McComiskey come forward for a few minutes. I think we can probably agree not to move on to vote 1404 today and just deal with it in the one hour on Wednesday.

The Vice-Chairman: Is that agreed, so that we won't adjust the time schedule for the other

votes and allow this encroachment of time to apply to the crown legal services program, vote 1404?

Mr. Breithaupt: That is satisfactory.

The Vice-Chairman: All right, fine.

Mr. Breithaupt: There was a recent lengthy article in the Kitchener-Waterloo Record with respect to the operations of the public trustee—it came through the Canadian Press, I presume—dealing with where you go to find all the money and where you shake out the variety of leads from newspapers and other sources.

Certainly, in this area, I think it is fair to say that Ontario is well served with respect to the senior administration in each of these three offices we see in vote 1403. It is a difficult situation to deal with a great variety of individuals and assets as well. I think it is correct to view the operations of these three areas as most important to the ongoing administration of justice.

We asked the question with respect to return on the moneys spent by the office. Perhaps it would be appropriate to ask Mr. McComiskey as well, in the area of the \$4 million we will spend and commit to spending for the functions you provide, what return occurs through fees and other matters to contribute somewhat to the operation of the office?

Mr. McComiskey: I might be an embarrassment the other way, because not only do I contribute but also I have a profit. In the past three years, we made about \$3 million a year over and above all our expenses.

Mr. Breithaupt: Really; then this vote, in effect, almost balances off between the operations of the official guardian and the public trustee.

Mr. McComiskey: I carry the other two.

Mr. Breithaupt: That is very good of you, Mr. McComiskey.

Mr. McComiskey: To be more specific in my answer to you, our fees and compensation as committee pay approximately 70 per cent of our operating costs. Roughly, our operating expenses are \$4 million, and we earn \$2.8 million in compensation and legal fees.

Unlike the accountant of the Supreme Court, I am a man with 20,000 pockets. When I invest money, I do it largely on behalf of the individual estate and it gets the benefit of whatever that investment produces. Now I have surplus funds that do go into investment in bulk under the Financial Administration Act.

At the moment, my office is paying 9.75 per cent on those funds, but we have a number of other pockets where there is either no interest payable or reduced interest payable because of particular circumstances. So we end up with an investment income that has produced a surplus for us every year, but in an increased amount in the past few years.

Mr. Breithaupt: What is the total value of the assets under your administration?

Mr. McComiskey: It is \$241 million.

Mr. Breithaupt: It is interesting that you would say you have some accounts upon which interest is not payable. Perhaps you could explain that a little bit to us in the moment we have left.

Mr. McComiskey: There are a number of places where that comes in. For example, we may have a patient die in a psychiatric facility. Or he may be discharged from a psychiatric facility and he has had enough of bureaucracy and just won't pick up his assets; so we hold those assets for him.

Mr. Breithaupt: Do they escheat eventually to the crown?

Mr. McComiskey: No, because there is a known owner; so they don't escheat to the crown. It is simply that nobody claims them; we transfer them to an unclaimed balance account, and that stops interest being paid. We do hold money that will escheat to the crown. We hold it for 10 years, and at the end of the tenth year, if it hasn't been claimed, it is turned in to the consolidated revenue fund; but in the intervening years interest is not being paid.

We enter agreements under the Business Corporations Act that when a company is being wound up, we will hold the assets for shareholders who cannot be located. They may be located in some future year or they may never be located, at least within my time; so there is no interest paid on those accounts. So I have a number of pockets where there is no interest payable, which results in investment income that helps pay my expenses.

Vote 1403 agreed to.

The committee adjourned at 12:55 p.m.

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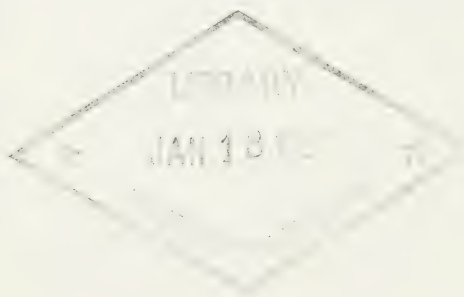
Ontario

No. J-27

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney General



First Session, Thirty-Second Parliament
Wednesday, December 9, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, December 9, 1981

The committee met at 10:08 a.m. in room No. 151.

After other business:

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

Mr. Chairman: Gentlemen, before we reconvene the estimates of the Attorney General, we have several matters to deal with. Firstly, can we deal with the Correctional Services' estimates which are scheduled for next week? That has been proposed and is satisfactory to the minister and Messrs. Spensieri and Breugh, the critics for the two other parties, and it is fine with me.

It is entirely up to the committee as a whole whether we start next Wednesday at 9 a.m. with the minister's statement and then depart for two correctional institutions, one in downtown Toronto, and one, I believe, in Mimico. We will be back by two. It would be assumed that next week the House is going to be sitting on Wednesday afternoon in the same way as today. We would return by two o'clock and sit for one hour on the estimates. I think the inmates are even going to provide lunch or something somewhere. Mr. Breithaupt does not seem to relish that. Maybe he has had them.

Mr. Breithaupt: I have given up lunches.

Mr. Chairman: Does that meet with the approval of the committee, subject to any changes in the House and so on?

Mr. Gordon: Does that mean we are doing the cooking?

Mr. Chairman: No, not likely. We will commence at nine o'clock next Wednesday morning. Fine. Thank you.

There is one more matter before we start the estimates. Bill 6, the Business Corporations Act, and Bill 125, the Children's Law Reform Amendment Act, have been referred to this committee during the period between Christmas and the winter break. As the Liberals and the NDPs are going to have divided duties and minds during February, that is, certain members will have divided attentions during that period of time, when would we like to sit to consider these two bills?

Mr. Renwick has made the suggestion of having two days for the Business Corporations Act and four days for the Children's Law Reform Amendment Act. I would wonder if we would be able to get through the BCA in two days, Mr. Renwick. Is that not being overly optimistic?

Mr. Renwick: There was nothing etched in stone. Unless the bar association or the institute of chartered accountants—and they very rarely choose to appear before us—have something to say on it, the only people I know who have indicated they want to appear are the Committee of Churches for Corporate Responsibility. I would hope others would appear, but I do not see it taking a great deal of time. I do not think it is worth the expense of advertising, although I do think it is well worth while to notify the bar association and the—

Mr. Chairman: The Law Society of Upper Canada and various others.

Mr. Renwick: —institute of chartered accountants that we will be considering it if they have any comments about it. Perhaps we could include the other accountability body as well.

Mr. Chairman: The one which includes the industrial accountants?

Mr. Renwick: Yes.

Mr. Chairman: Yes.

Mr. Renwick: I do not personally anticipate it is going to take a long time.

Mr. Chairman: Would it be fair to schedule them on separate weeks perhaps, or at least to ask the House for permission for a maximum of five days to have it in place, so if we did run into surprises, we would at least have that time authorized?

Mr. Breithaupt: It would probably be better, Mr. Chairman, if you were to plan, depending on the convenience of the committee, for two weeks. Then you have the leeway to sort things out. It may be that one bill may take two or three days. It may be you would prefer to start on a Monday instead of the usual Tuesday to Thursday, but you will have the opportunity to roll with it if you cover yourself with the two weeks. That would be my suggestion.

Mr. Williams: Mr. Chairman, the two week time frame poses no difficulties. It is just a question of which two weeks. I gather there will be a number of committees sitting during January and February—the select committee on pensions and others. I do not know what time schedules have been worked out as yet. I presume they are being formulated at this time and that this would have to be dovetailed with the activities going on in other committees.

10:20 a.m.

Mr. Chairman: That is exactly what we are trying to do—get our axe in there first to possibly get a preferential time. Would the last two weeks of January meet with the committee's overall approval?

Mr. Williams: I wonder how many members in the committee are sitting on select committees. Usually a select committee takes precedence over the the standing committees as far as priorities are concerned.

Mr. Breithaupt: I do not think we have any select committees, Mr. Chairman. Oh, the Ombudsman does.

Mr. Williams: I wonder if we could try to get those determinations made, maybe even today, as to what is happening there.

Mr. Chairman: Can we not establish our preference and then adapt from there?

Mr. Breithaupt: One thing you could do is pick the first two weeks in January and then you would know you had got it out of the way. I am sure the House leaders will probably have to sort out one committee or another if everybody wants a certain period of time.

Mr. Williams: That is right.

Mr. Breithaupt: About all we can do is say that this is our choice. Are there others that are meeting or have already considered that time?

Mr. Chairman: There are two other committees the clerk already knows of. Are there any committees sitting the first two weeks in January? Yes.

Mr. Williams: What are they? What committees are already sitting?

Clerk of the Committee: Procedural affairs is sitting the first two weeks, or would like to sit the first two weeks, and pensions may start sitting the second two weeks.

Mr. Williams: Yes. I would assume they would start the second week. So if we could get

at least the first week in free of select committee activities, it would be helpful to those of us on select committees.

Mr. Breithaupt: The weeks do not have to follow concurrently.

Mr. Chairman: So what is our first choice?

Mr. Williams: The first two weeks of January would seem appropriate.

Mr. Chairman: The first two weeks of January is our first choice. Our second choice is the last two weeks of January?

Mr. Renwick: Try hard for the first one.

Mr. Williams: Try for the first two weeks.

Mr. Chairman: Fine. Thank you. That is more or less a consensus. I believe Mr. Taylor must leave at 12:40 today for personal reasons. With the co-operation of the committee, we would rise then. Shall we proceed with the estimates? We have 10 hours and 11 minutes remaining.

On vote 1404, crown legal services program; item 1, criminal law division:

Mr. Breithaupt: Mr. Chairman, there are several questions we have to ask in the time available with respect to these three votes we are to attend to this morning. You will recall that vote 1404, crown legal services, vote 1405, legislative counsel services, and at least a portion of time on vote 1406, courts administration, was the schedule to which we agreed. I thought I might just start with asking a couple of questions with respect to the crown legal services under the criminal law division area.

One thing I would like to discuss is the situation with respect to the Young Offenders Act. You will recall there have been some comments made over several years concerning any federal initiatives to introduce changes to the law under the form of a new Young Offenders Act, I would like to hear if there is any progress which can be reported upon.

Indeed, last week the Attorney General said the matter would be taken up at his meeting in Ottawa, which is to be held today. I am wondering if you can give us any information now because by the time this vote will have been dealt with the meeting will be over and we may not have the opportunity to return. Is there a proposal which is being made by the Attorney General that can be mentioned today? Generally what progress is occurring?

Mr. Takach: Perhaps I might comment on that briefly, Mr. Chairman. There is a proposal. You are quite correct in saying it is being

discussed today, or perhaps it was discussed yesterday, at the meeting in Ottawa. After some substantial consultation with all aspects of the Ministry of the Attorney General, the Ontario delegation has come up with a proposal. I do not have a copy of it at the present time.

Mr. Breithaupt: Are you able, generally, to discuss it? If it is not appropriate, just tell us.

Mr. Takach: I think it would not be appropriate at the present time. I am just not sure what position the minister has taken. I know generally what the proposal was to be about but, as I have said, it was to be discussed yesterday or perhaps today. I have been unable to contact the minister this morning to determine the status of that agenda item.

Mr. Renwick: Mr. Chairman, on that matter the Attorney General said he would report to us when he came back. I raised the question of the Young Offenders Act a week or so ago, and he did say he would report to us about that matter.

Mr. Breithaupt: In this same area there was a point raised during a recent controversy when a judge prohibited reporters from attending the trial of a juvenile. This arose as a result of a ruling by the judge under section 12 of the Juvenile Delinquents Act. I was wondering if there has been any review of this situation because that ruling might have some rather serious implications. I can understand that publication of information, of course, might well be barred in such interests as are seen by the judge, but is it customary that attendance at a trial would be barred as well?

Mr. Takach: Probably not unless a specific ruling has been made, and there are provisions by which the public may be excluded. Generally, what is provided for is a trial in juvenile court without publicity and what is prohibited is the publishing of the evidence which would tend to identify the juvenile or, in fact, to name the juvenile. There are provisions from time to time, both in criminal proceedings and juvenile proceedings, whereby, I believe, the public, and that would include the media, can be excluded—certainly with respect to criminal proceedings. I am not sure I am familiar with the very case you speak of.

Mr. Breithaupt: I will get the details because I consider it is worthy of a further review. I will be in touch with you on that.

Mr. Takach: I will be happy to look into it.

Mr. G. W. Taylor: Mr. Breithaupt, was your

question exactly on our attendants, meaning that the attendants at the doors of the courts refused admission?

Mr. Breithaupt: No, on public attendance.

Mr. G. W. Taylor: You were referring then to public attendance?

Mr. Breithaupt: Yes.

Mr. Takach: There was one incident in Halton, but that is not the one to which you were referring, I take it.

Mr. Breithaupt: No. I was interested in the matter just as a matter of principle, I suppose, but the provision does exist. It may be that on those facts it was a decision that obviously had been made based on the merits of the case. I have no further questions with respect to that particular point. Maybe Mr. Renwick has some comments.

10:30 a.m.

Mr. Renwick: There is a question I want to go into in some detail. It is a vexed question that I think has come into our law from the United States. I am concerned about this sort of grant of immunity from prosecution. I have never heard in the time I have been around any such formal expression ever used as was used recently in connection with a case in which you were involved. I am not particularly interested in the particulars of the case. I tried to follow it as best I could in the media.

I had the sense that there was, in fact, a document in that case which could be called a grant of immunity of prosecution; in other words, an actual formal document which would have stopped the crown from proceeding in any of the matters to which it specifically related. Is there such a document? Is there a background for it? How is it distinguished from the question of the usual process of simply saying that the crown will not proceed in a matter without in any way inhibiting the crown from process?

I may have either overstated it or understated it, but I would like the record of this assembly to show very clearly what that is all about.

Mr. Breithaupt: And how often it is used.

Mr. Renwick: Yes, and how often it is used; what the origin of it is; has there been an acceleration in its use; the number of occasions; the examples that you can give us. I am not asking for particulars of individual cases; I am asking for the intrusion into our criminal law jurisprudence of this question and this method of dealing with it.

Mr. Morton: There is such a document. There is an agreement between the crown in right of the province of Ontario and Cecil Kirby.

Rather than use the term immunity—and I do not say that is the wrong term; I do not like that term—what Kirby was given in this case was an undertaking that he would not be prosecuted in Ontario with reference to certain matters where we had absolutely no evidence against anybody whatsoever. In other words, there was a series of offences committed in this province in the last, say, five years, that had been investigated by the police. They had been put on hold—in other words, they were not closed off—but the investigation never led to any charges, nor did it lead to any evidence against anybody.

Mr. Kirby came forward, and in addition to disclosing to the police authorities certain matters about organized crime, he also disclosed that he had committed certain offences. He gave a statement which, irrespective of any undertaking, would not have been admissible against him because it was induced and violated the rule in Boudreau, that a statement must be voluntary to be admissible; so that evidence would not have been admissible against Kirby in any event.

So there was a situation where there were several unsolved crimes, no evidence against anybody, Kirby indicating he had committed them and, in addition, offering, for reasons of his own—some very good reasons, I think—to testify in proceedings against organized crime figures in this province. On the basis of that, after discussions with the Attorney General, it was decided that it was in the best interests of the administration of justice to undertake to Kirby that he would not be prosecuted in Ontario for those offences, provided he told everything about them, told the truth about them, and that those statements of his were accepted as being credible by the authorities, police and crown, I guess myself and another lawyer named Segal who worked on the case with me.

As you are aware, from the evidence Kirby could have given, along with at some great risk to himself wearing a body pack to about 11 meetings with some pretty serious people, the Commissos, the police were able to obtain evidence which resulted in the convictions of the three Comisso brothers, Rocco Romeo and an American; and there is a sixth person, an American, who is presently fighting an extradition order.

Mr. Renwick, when you weigh it off it is not

an easy question. The crown really did not have anything to start with. It gave Kirby an undertaking and, as a result of that undertaking, it obtained evidence which put five people so far into jail for fairly lengthy terms—two of them got a series of eight-year concurrent terms—when the crown would have had no evidence. Because of the way organized crime operates, you simply do not get evidence against these guys.

Mr. Breithaupt: And also you then were able to close off a number of other files on other events.

Mr. Morton: Yes, but those files are not closed because those investigations are still continuing, not with reference to charging Kirby, but there may well be other persons involved.

I have tried to answer all your questions. There is a formal document. In terms of rarity, it is extremely rare. I think that whenever Rod McLeod, John Takach and I have talked to crowns about it, we have indicated how extremely careful a crown would have to be, even discussing it with the minister as well, before one would even consider this type of process.

One always feels a little uncomfortable because of the very concerns that I think you are expressing with reference to this. You have a man in the public eye, accused of committing serious offences, who will not be prosecuted. I do not know whether you agree with me, but it was fairly clear to me when everything was weighed that was the right thing to do.

Mr. Renwick: I am not trying to second-guess the judgement. It would be quite unusual if the parliamentary assistant or the Attorney General were to come before us and say he had made a mistake. Those things do not happen. I understand that you weigh things off, but I think what concerned me is that there is a formal document in existence, signed on behalf of Her Majesty the Queen in the right of the province of Ontario, to a person whose reputation is far from reputable in the community. That disturbs me. Is it possible that we could see a copy of that document?

Mr. Morton: I should like to speak to the minister about that. As a prosecutor, I would not like that document to become public at this time. I am sure that at any subsequent trial it will be. If it is the document that bothers you, whether or not there was a document on the basis of a lot of authorities, Agozzino, for example, if I gave an oral undertaking, or Mr.

Takach or Mr. Mcleod, that would bind every crown in the province anyway. It is just when the person receiving the undertaking wants the security of a written document—

Mr. Renwick: But you moved further than you customarily move because it is quite true that if you were to give an oral undertaking, it is understood amongst the crown attorneys in the province that is the end of that matter. In fact, it is not necessarily the end of the matter. It may be a matter of courtesy within the system, but it could be overridden. In this particular case it could not be overridden. I know all the ritual of the custom and honour of crown attorneys, honour among thieves, and all of the rest of those comments that are about.

The fact of the matter is that, unless you can tell me this is a common practice—I do not mean by common a practice which is often used, but a recognized practice in the courts—then I am saying there must have been in this case a significant departure from the normal course of events of which Mr. Breithaupt and you and I are aware of what goes on in the courts with respect to the methods of producing evidence and the way in which persons who have come forward as witnesses for the crown are dealt with. But there is no handle that any person has on the system other than some so-called tradition that you will not proceed. In fact, the Attorney General very well could proceed.

Mr. Morton: I am not so sure he could, sir.

Mr. Renwick: All right then. I want somewhere an opinion put before this committee of exactly why you went to the stage you did in this particular case because here you have a precedent. In the underworld, which you do not know anything about because you cannot get the evidence, there are a lot of people working out there who will come up and say, "Well, you did it in that case; I want it in this case."

You lend yourself to using it with great care and—I shall prefix it by the word "judicial"—you are subject to a certain amount of judicial blackmail.

10:40 a.m.

Mr. Morton: I do not agree with the use of that term at all, sir. When a person comes forward and says he has information, it is clearly up to the Attorney General, as chief officer of the crown, after weighing it, whether or not he accepts that it is worth while in the best interests of the administration of justice to give such an undertaking. It is very rare; it is the second time

in 11 years I have ever been involved in such an undertaking. The existence of a written undertaking in this case was at Kirby's request and insistence. Kirby wanted it in writing. I guess you could say he was not satisfied with just an oral undertaking. He did not trust us.

Mr. Renwick: Mr. Chairman, would it be appropriate for me to ask the parliamentary assistant to request the Attorney General to table with us the undertaking that was given in the Kirby case so that we will have it? By what authority was it signed on behalf of the province and were there any similar undertakings in that form that have been given in the course of the last quarter century in the province? Who would sign that document?

Mr. Morton: It was signed by Mr. McLeod, on behalf of the province and by the three police forces, OPP, RCMP and—

Mr. Renwick: I would like to know the authority by which Mr. McLeod, if he had any authority, signed on behalf of the province. I do not want to labour the point, but it is a matter of great concern to me.

Mr. Morton: As chief law officer of the crown, the authority was discussed at great length with him. Again, in weighing it off, it was clear to all of us—maybe you do not agree—that it was the right thing to do in the interest of justice. On that basis, that would be where the authority came from—the authority of the chief law officer of the crown to superintend all matters involving the administration of justice.

Mr. Renwick: It is also possible for the chief law officer of the crown to exceed his authority. I want to know what the authority was by which this document was signed and how many over the past 25 years have been given in Ontario in similar circumstances. It was obviously not a document which could have been signed by any assistant crown attorney across the province. I would not want anybody to start to think that the crown attorney, no matter how highly regarded, of the judicial district of York, for example, now has some kind of authority to sign one.

Mr. Morton: I could not agree with you more, sir.

Mr. Breithaupt: Again, this is the problem I see, Mr. Chairman. While this, as explained, is a very rare situation, the publicity it has received may make it appear to be the usual practice. As you consider the operations of both the Ontario Evidence Act and the Canada Evidence Act, I think that it is most important to recognize some

of the framework in which various admissions are allowed or prosecutions are not entered into, but are within the traditional framework of the courts' operation.

I think it is most important in this circumstance to ensure that it is clearly known that such an occurrence is a rarity and can be only entered into, if at all, at the most senior levels within the administration of justice. It would seem to me, for example, that one of the things that should occur at the next meeting with the crown attorneys, if it has not already, is a review of this situation clearly explaining to them what the practice is.

I would think also that the review would show clearly to them that they do not have the authority to enter into this. If they had comments or questions or concerns because of the rarity and the seriousness of this kind of thing, they must always be dealt with by a certain designated person who, if the circumstances were appropriate, might take the matter forward.

Because of the publicity this has had, I just feel that the attitude will be that this is a routine kind of thing. The rarity of it is not going to be as clearly understood, nor may it be as clearly acknowledged by crown attorneys across the province. They may find that this suddenly becomes an interesting tool they would wish to use more if it was appropriate, or a case could at least be made for it.

I think you have a problem in not only finding out the authority upon which this was done, which would be of interest, but ensuring that everyone knows clearly in the justice system, that the crown attorneys know, what the rules are and how it can be developed if the occasion should arise. They should always, of course, take their concerns about the possibility of this to their superiors because it may well be appropriate. Of course, none of us will know what some crown attorney is hearing today and coming to some decision about. But I just want to make sure that if this is a rarity and if it is to be entered into on occasion, perhaps most appropriately, everybody should know what the ground rules are.

Mr. Williams: Mr. Chairman, could I follow up as a supplementary to the supplementary, if you will? Unfortunately, I do not have the statement here that the minister made in the House, but I think we all recall that it was very lengthy and detailed. I am certain he made it abundantly clear at the time that because of the uniqueness of the situation, if I can use that

term, he recognized he had to make the final decision personally in the matter. Because it was a variation from normal jurisprudence, he took full responsibility and gave personal direction that the undertaking be given.

At the time I thought that not only in his detailed statement justifying the reasoning for so doing, but also in what followed after his statement in the line of questioning from Mr. Renwick and others in the House, he further augmented his statement with elaboration as to details on how this came to pass. I do not see how there could be doubt in any person's mind about the doubts you raised in your comments, Mr. Breithaupt, namely, that it was not other than a very rare and unique situation under which the Attorney General had to make that personal decision.

Surely no one on this committee is suggesting that justice was not served in this matter, given the beneficial results that flowed from having to obtain that statement and given that particular prosecutions were able to proceed and that convictions were imposed by the courts solely on the basis of the evidence available through that and apparently no other source.

It seems to me that the only issue at hand here is whether or not there was any other alternative source of information available. That seems to be the line of questioning that I gather from Mr. Renwick. He has to have assurance that no other options were open to the ministry and that the Attorney General was left with no choice but to proceed in this very unusual manner, recognizing that he had to give this detailed accounting of why he gave this authorization.

In my mind there is no question that he was making it clear to the public at large that it was a precedent-setting thing, something he did not anticipate would recur in the future even on a random or a very seldom basis. I did not see there was any ambiguity or doubt about the seriousness of the decision he had to make, but he felt under those circumstances he had no other recourse. That just sets it in perspective, as I understood the situation.

10:50 a.m.

Mr. Renwick: My concern is much broader than the very simple way in which you have expressed it, Mr. Williams. I am not leading into what Mr. Morton said, but the identical circumstances—I do not mean the identical crimes, but the identical circumstances—of someone emerging from the underground of underworld criminal activities in the province can emerge again because the crown law officer

has said before the committee that this is a situation where they do not often know what is going on in the world of organized crime. They depend on persons who are prepared to come forward for whatever their motivations.

That can be duplicated this morning in your work or it can be duplicated tomorrow morning. If we are not extremely careful, gradually we will find a slow creation of precedent and policy formulation which, while in this instance perhaps can be treated as unique, in future instances we will say, "We did that in such and such an instance. This seems an appropriate one; it will save us a lot of money. We have not got the evidence anyway, but we will now get the evidence. We can do this and we can do that and all the rest of it."

Mr. Breithaupt: That would be an easy way out in a sense.

Mr. Renwick: Yes. I am not suggesting for a moment that it has not been done before by every crown attorney in the province in the normal process in that any lawyer who has ever appeared in a criminal court understands plea bargaining, or whatever you want to do, but all of the circumstances are at least in an area where they are discussable. They are not bound by a great deal of precedent; they may be bound by a degree of honour among the crown attorneys and the defence counsel and so on.

As I understand it, if the crown withdraws a charge, nothing on God's green earth can prevent the crown from proceeding on that matter, even if it happens to upset somebody because he thinks he has given his word and somebody else has overridden it. Here you do not. You have a document which would stand up in a court—that would be my understanding of this document—unless the court were to say that in this situation in Ontario and under the criminal law of Canada and the administration of justice that crown officers have exceeded their authority.

Mr. Breithaupt: But they cannot even do that.

Mr. Renwick: And they cannot do it. I am not making an invidious comparison with the United States, but I believe the actual grant and the term are important in the US. A grant of immunity from prosecution is a formal document which flows out of their constitution in some way. There is a link back into the constitutional framework of the United States, and the document is precisely that. Just as a grant of pardon, this grant of immunity from prosecution has the full status that would be recognized in the court to protect any person.

I have gone on too long. I think Mr. Morton understands the thrust of my remarks and I think the parliamentary assistant and Mr. Takach understand it.

Mr. G. W. Taylor: I think they are legitimate, logical followings out of what has occurred. I shall raise them with the Attorney General when he returns for answer before the committee, particularly in regard to what you have said will be the future policy when instructions have been given to crown attorneys. Mr. Morton also mentioned that certain police departments were involved in initial discussions which brought about the agreement.

Some questions arise from this. What instructions have gone out to police departments when they are investigating, what authority can they extend to these immunities and how far can they go? Particularly when there is a written document, what are the contents of that document and how far does it go, say, in future immunity flowing out of much the same circumstances? Is this man totally immune from any prosecution whatsoever as a result of the initial evidence provided?

Mr. Renwick: And did the minister have a legal opinion from his crown law officers about his authority, having considered this matter, to grant it? I am talking about the principle of the authority and the process rather than, as I said at the very beginning, the actual particular facts of the case which, unfortunately, as I said, can be duplicated anywhere.

Mr. G. W. Taylor: I think they are legitimate concerns, Mr. Renwick, and I shall raise them with the Attorney General. You asked also what will those being subject to prosecution request from each individual crown attorney. You and I know, having practised law, a lot of the arrangements between crowns and defence counsel are done orally and by faith. Will everybody now want this signed, sealed and executed document? Who will be the person to carry out that function, or will it be that each time he will have to see the Attorney General? There is a concern, and I shall raise that with him.

Mr. Takach: I wonder if I might intervene at this point. I wanted to comment on something you said, Mr. Renwick, and I was going to make the comment quite apart from your making it. Even though this case Mr. Morton has spoken of has formed the main subject of the conversation, it would be wrong to think that a similar type of thing has never happened in the past in Ontario with crown attorneys throughout the province.

I am not referring to items of this magnitude, wherein an individual comes forward and says, involuntarily albeit, "I have committed serious crimes and others have committed them with me," but very often a crown attorney in his jurisdiction will be faced with an individual coming forward, very often an individual who is not charged with a criminal offence, saying: "I took this stolen eight-track tape recorder from my friend X. It has been bothering me ever since and he has done six B and Es."

His lawyer is saying to the crown, "We will give you this statement; he wants to get it off his chest." He does give an involuntary statement, a statement the crown could never use against the individual because he is giving it, saying, "I am only giving it as long as you do not prosecute me. As long as you do not prosecute me, here is the evidence." That would be an involuntary statement, and those do proceed in court and are accepted as such.

I would not say it happens regularly. I have been involved in a few over the years, and it does happen. It is not something on which we have determined that the crown attorney or the assistant crown attorney has immediately to get on the phone and call the Attorney General or the director of crown attorneys about. Naturally, on something of the magnitude of the subject we are speaking of today, where these were very serious crimes indeed, I would expect and I would know that any crown attorney who is approached in a similar way would immediately call myself or Mr. McLeod and consult with us on it. I have no doubt that would take place.

On the other hand, there are what you might refer to as minor charges, where potential charges are not proceeded with simply because they cannot be proceeded with. There is no formal grant of immunity given because there is nothing to give. You could not prosecute the individual in any event, so it is not even a tradeoff.

The real issue would be in a case where there was admissible evidence against one accused and there was some admissible evidence against another accused, who was perhaps the most culpable or perhaps, to use common parlance, was the ringleader, and you had to make a determination as to whether you would proceed against the ringleader and not proceed against a lesser light by virtue of the fact that this lesser light was providing you with more evidence against the so-called leader of the group.

That is where a real question about tradeoff comes, where there is admissible evidence that

would go to the guilt of the person who is tendering evidence and where he somehow wants you not to proceed against him in return for his testimony. That situation occurs a lot less frequently than the situation we are speaking of, where you actually have no admissible evidence against that individual.

11 a.m.

Mr. Renwick: I really wish I was innocent and naive. I understand that. My question was not directed toward that, unless you are now saying to me that there are assistant crown attorneys across the province who are signing documents.

Mr. Takach: No.

Mr. Renwick: My point was the formalization —

Mr. Takach: I realize that.

Mr. Renwick: —of what is otherwise known as, everything else being equal, "we are not going to proceed against you." But you never ever give up the right to proceed. Many defendants, accused persons, walk out of court feeling assured that the matter is closed. Many defence counsel so tell their clients, but the crown always has the reserved right, if it wishes, to proceed.

This has gone the further step of the document. It is that kind of formalization I am talking about because the document means that the person has something more. Unless they held that the Attorney General had no authority—and I understand Mr. McLeod is acting in the name of the Attorney General—to give this, then it would be a document which would estop the crown from ever proceeding in that case. That is not so in the number of cases across the province which you gave as examples.

That is really what is worrying me about it. The constitutionally approved procedure in the United States of an actual grant of immunity from prosecution, which is a document, is used quite often in the United States. That is why I ask, how many times has a member of the ministry, let alone the crown attorneys across the judicial districts in the province, signed these documents in the last quarter of a century?

Mr. Takach: In the light of Mr. Breithaupt's comment, I just thought we ought to distinguish between the two situations.

Mr. Chairman: Thank you. Are there any other questions with regard to this subject?

Mr. Renwick: I have one other question on

this particular matter, and then I have two others on the same vote. I do not want to intrude on Mr. Breithaupt.

Mr. Breithaupt: Go right ahead.

Mr. Renwick: Again, it is not a lengthy one. We have been concerned about the allegation that Mr. Kirby beat up his girlfriend and we have had correspondence with the counsel for the woman, whose state is very serious. That is the evidence we have. We have written to the Attorney General to find out what is going to take place that will protect her against any repetition, to the extent that it is possible to do so, of the beating up she suffered and the trauma which she presently is under. It was a specific request for police protection for her. Are you aware of that?

Mr. Morton: Yes, I am, sir. The matter has been fully investigated both by the local police force, which is the Peel regional police force and by the RCMP, which sort of head up the special enforcement unit, although it is made up of three combined forces. I have also had an internal investigation. Both of those investigations are now complete, and we are awaiting a report from each of those forces. When the Attorney General has received those reports, my understanding is he will be replying to a question which was asked in the House by yourself and Mr. Breaugh.

Mr. Renwick: I understand that part of it. I am asking about the other issue of whether or not a request has gone forward from the Ministry of the Attorney General to the police involved to provide police protection for the woman who is alleged to have been assaulted by Mr. Kirby in the motel. Is anything being done to protect her?

Mr. Morton: No, it has not. I know you prefaced your question by saying based on the evidence you have. My understanding is the evidence you have is incorrect. Miss Cadwell has refused to be interviewed by the police forces. She will not give a statement as to what happened with reference to the last incident. They have attempted on several occasions through her lawyer, one Brian Jones, to ask if she will give such a statement and she has refused.

Mr. Renwick: We are not in argument about the evidence. I am not purporting to have any evidence. All I happen to have is the request from her counsel, on the basis of the doctor who is in attendance on Miss Cadwell, that she is in a very serious state of emotional trauma and is

very fearful, and that her recovery will depend to a large extent on re-establishing a sense of personal security for her so that she can begin a process of recovery. That is all we know about the matter and we are entirely dependent on counsel for her.

Mr. Morton: Depending on what Mr. Jones has told you.

Mr. Renwick: Yes. Mr. Jones has written, for what reasons I do not know. In any event, we have had correspondence with the Attorney General to find out whether or not some assurance of protection can be given to her so that the process of her recovering her emotional stability and her mental health can get under way.

Mr. Morton: I guess, sir, the difficulty is whether or not what Mr. Jones is telling you is in fact factual.

Mr. Renwick: He is just telling me what the doctor for Miss Cadwell has said. I accept what Mr. Jones says.

Mr. Morton: I do not, sir. If Miss Cadwell would be prepared to speak to the police officers, and as long as there was any remote chance of there being any danger to her whatsoever, I am sure the police officers would provide whatever—

Mr. Renwick: Surely it is not a condition of the police providing protection to a person that the person talk to the police in these kinds of circumstances. Surely you have an obligation to any citizen who is suffering from serious mental or emotional trauma to do something to stabilize her condition.

Mr. Morton: But that is the issue. Your information, with reference to her trauma comes from Mr. Jones, and I am not prepared—

Mr. Breithaupt: You are saying you cannot force that protection on her?

Mr. Morton: That is right.

Mr. Renwick: Are you saying she does not want it?

Mr. Morton: My understanding is that she has so far refused to be interviewed. At least two requests have been made for her to sit down with a police officer—

Mr. Renwick: I was thinking of protection. I was not talking about her sitting down with anyone.

Mr. Morton: She has to want it. I take issue with the allegations of Brian Jones.

Mr. Breithaupt: She has to say she wants it.

Mr. Morton: I understand your information comes solely from Mr. Jones.

Mr. Renwick: What you are saying is that in order to get you to respond, you would have to have a letter from her saying she would like protection.

Mr. Morton: No, not at all. You know as well as I do if the police felt that there was any concern there whatsoever, they would be the first ones who would offer whatever protection or whatever can be given.

Mr. Renwick: That is what I had hoped. That is what I could not understand.

Mr. Morton: But they do not accept the allegations of Mr. Jones. They have made attempts to speak to Linda Cadwell, and so far she has refused.

Mr. Renwick: I shall send a transcript of this to Mr. Jones and ask him to respond.

Mr. Morton: There is a transcript you might like to see. It is a transcript on a bail hearing where Miss Cadwell testified and it has the findings of His Honour Judge Cannon with reference to bail. I do not want to relate the facts to you because it is before the courts, but it is a related matter involving a person who was found with a weapon near Mr. Kirby. He was charged and came up for a bail hearing. Miss Cadwell testified, and His Honour Judge Cannon had some difficulty with the factual basis on which she was indicating what had taken place. That might be of interest to you, along with what Mr. Jones is giving. I can get you a copy of that.

Mr. Renwick: If I could have a copy of it, I would certainly forward it along with the transcript of this inconclusive exchange to Mr. Jones for any comment he might care to make about it. Our concern was whether or not she was in jeopardy. The correspondence we had indicated that, yes, she either was in jeopardy or she had a sense herself of jeopardy, real or otherwise.

Mr. Breithaupt: Or others think she was. Obviously her doctor and lawyer thought that was the case.

Mr. Renwick: That she thinks she is in jeopardy. That is the old question. Anyway, that is far enough.

11:10 a.m.

Mr. G. W. Taylor: In this situation, Mr. Renwick, would you say, as the crown officer said, if the individual does not request, or at least does not give any indication she desires some form of protection, the police force should offer forth that protection or give her

some protection she does not desire? You may have that individual now coming forth without being harassed. I kind of lean with what the officer said in this respect.

Mr. Renwick: I do not lean—

Mr. G. W. Taylor: There has to be some initiation from the person in desiring it.

Mr. Renwick: Sure, I agree. I cannot just pick up the telephone and say: "I am feeling a little harassed today by Mr. Breithaupt. Will you please send a police officer over?" No, I am not saying that. I am talking about the situation within the framework of the reports in the media, the investigations which have taken place and all of the circumstances surrounding it.

Until the police have completed their investigation and decided there is no basis of truth in this at all and it is a figment of the person's imagination, it is quite reasonable to believe that in the interim period a request be made for protection. It was solely on that basis I raised it. It was not to argue with the crown or to argue with Mr. Jones or with Miss Cadwell or Miss Cadwell's doctor about her condition.

I have a couple more questions.

Mr. Chairman: On this same item 1?

Mr. Renwick: On the same vote, crown legal services, which is the one we are on.

Mr. Chairman: Yes. If we are through with item 1, can we carry that and perhaps take the others then?

Mr. Renwick: I have two points. One is to ask the state of the Bear Island law suit, if this is the appropriate place. If it is not, then tell me where it is.

Mr. Chairman: No. You are into civil there.

Mr. Renwick: That is civil.

Mr. Chairman: That would be item 2.

Mr. Renwick: All right.

Mr. Chairman: I would like to complete the discussion on item 1. Are there any other questions? Mr. Renwick.

Mr. Renwick: There is an area I am interested in, although I do not have any special knowledge of it. I am talking here about a number of articles, a number of concerns that have been raised. The best one I have seen on the delivery of mental health services to the criminal justice system appeared in the March 8, 1981, volume of the Gazette of the law society.

The article refers to the report of the Ontario Council of Health. I gather the whole of the

report is a report of the Ontario Council of Health committee on mental health services in Ontario, legal task force, part one, entitled Civil Rights of the Mentally Ill; part two, The Criminal Justice System and Mental Health Services, 1979.

In this article by Mr. Turner, who is a forensic psychiatrist—it is a paper presented to the lawyers' club—it stated there were a number of recommendations in the report. The first one was—and I am not going to go into them since there are about 10 of them—“that the Ministry of Health, in consultation with the Ministries of the Attorney General, Solicitor General, Correctional Services, Community and Social Services and the Secretariat for Justice, clarify the responsibility for mental health services in relation to the administration of justice, and that because of the complexity of legislation, jurisdiction and administrative procedures, the responsibility be vested in a body such as a forensic psychiatric services commission.”

Is this the appropriate time to speak to that matter, or do you know whether those recommendations have been implemented in any way?

Mr. Takach: Perhaps the only thing I could say at this point, Mr. Renwick, is that I was about to sit down with Mr. Rickaby, who is the ministry's representative on the Metropolitan Toronto forensic service, of which Dr. Turner is also a member, to review Dr. Turner's article and several other similar recommendations. I will be reviewing it with the minister at a later point.

Mr. Renwick: Perhaps you could ask the Attorney General, before he winds up his estimates, to make some further comment about that whole question involved.

Mr. Takach: I will bring it to his attention.

Mr. Renwick: Thank you, Mr. Chairman, for your patience.

Mr. Chairman: Not at all. Thank you, Mr. Renwick. Are there any other questions on item 1?

Item 1 agreed to.

On item 2, civil law division:

Mr. Breithaupt: The constitutional law office has been somewhat busier in these last 12 months. There may be some comments and questions made particularly concerning that operation.

There was one area I was interested in pursuing with respect to the opening remarks in

the Attorney General's statement and in light of the events this past weekend in Quebec. I am wondering if there are any observations to be made concerning the prospect of ongoing talks on constitutional matters with the government of Quebec. Has there been any encouragement or opportunity to show that the government of Ontario is willing to continue with an ongoing relationship of discussions?

Certainly it would appear the government of Quebec, as well as the framework of the political party which supports it, is going through some readjustment and realignment. While one does not interfere in the internal operations of such matters, I am wondering if there are opportunities the government of Ontario can take to encourage the dialogue that has gone on to date? Is there anything planned at this point which you are able to report to us?

Mr. Wright: I cannot answer that question. I think that is a question the Attorney General is going to have to give you information on.

Mr. Breithaupt: Maybe then Mr. Taylor could pass on that information as soon as it is available.

Mr. G. W. Taylor: I think the Attorney General has made general statements that the constitutional debate probably will never be totally finalized. It is an ongoing, evolving process as this country has been. But I shall, as you have requested, raise the position on the constitution with the Attorney General, particularly in regard to the province of Quebec.

Mr. Breithaupt: Also under the general constitutional heading, I wonder if the parliamentary assistant can ask the Attorney General if he has any statements to make with respect to any expansion of or amendment to the composition of the Supreme Court. As we all recall, the more or less historic arrangement by which Ontario had three members of the Supreme Court has been changed to accommodate growth and development in western Canada.

Is there any ongoing discussion or involvement concerning the expansion of the size of the court to allow for additional representation? Has this matter been discussed currently? If that is the case, could you ask the Attorney General to inform the members of the committee by statement or inform the House as to any views Ontario might have in that area?

Mr. G. W. Taylor: Yes. Mr. Breithaupt, I will raise those with the Attorney General. I hope the chairman and the other members of the committee will allow time for these very obvi-

ous questions I am unable to answer. As you are fully aware, they are totally within the realm of policy of the Attorney General. I hope there will be time in the later votes for these to be raised and answered for you, Mr. Breithaupt.

11:20 a.m.

Mr. Breithaupt: I would also look forward to hearing from the Attorney General with respect to the matter of native rights in the constitution. It certainly seemed as though the Attorney General was suggesting extreme caution with respect to the formal inclusion of the small paragraph that appears on native rights in the new written document which will within a few days be the basic constitutional document of Canada. I do not know whether we can usefully have much more said since the reports on this area have been somewhat conflicting.

We have seen, on one hand, the commitment—at least as I understood it—of the Premier to have the government of Ontario support the inclusion of a reference to our concern for native rights. That has now been accommodated, although it also appeared there were these concerns which the Attorney General made. If there is any view on the part of the Attorney General that some clarification of this might be helpful, then perhaps you might also pass on my concerns in that area. Then we will all be dealing with the same consistent approach in that very difficult area of our society.

Mr. G. W. Taylor: Yes, Mr. Breithaupt, I shall take those to the Attorney General. As you are probably aware, many of the constitutional proceedings were taking place in a small kitchen. I suspect there was not a large crowd, so I am sure many of these items you have raised will be enlightening to all those who were not able to get seats or places in that kitchen.

Mr. Breithaupt: It will be a little long if we have to wait for the biographies to be printed.

Mr. Chairman: Thank you. Are there any other questions? Did Mr. Renwick finish his questions under item 2?

Mr. Wright: I think Mr. Renwick had a question on the Temagami case which I can answer to him personally since he is not here.

Mr. Breithaupt: In the continuing absence of Mr. Renwick, I do not know what his preference would be. I felt he wanted to use some time this morning to discuss his particular constitutional concerns because obviously the major work of the division has been in that area. I have now had the opportunity of continuing my comments until he returns. We can move ahead with

his question in that area or in the constitutional matters, if he wishes to raise any particulars for the Attorney General's reference. It may be difficult otherwise to deal with them because of the situation which requires the Attorney General to be in Ottawa.

Mr. Chairman: Yes. Mr. Renwick, Mr. Breithaupt has completed his questions under item 2. Would you carry on?

Mr. Renwick: I just have the one item. Last Friday I said all I wanted to say about the constitution at the present time. I note with interest the National Assembly in Quebec apparently unanimously has referred the question to the court, which will decide whether or not they have a constitutional matter about the position of Quebec. I imagine that will be of continuing interest to the Attorney General, but I guess at this point that is speculative.

Mr. Wright knows that I have had a continuing interest ever since the caution was filed in the Bear Island matter by Chief Gary Potts. My interest was heightened by that strange exchange of correspondence between the Attorney General of Ontario and the Minister of Justice and the Attorney General of Canada on the aboriginal rights issue.

My concern has been that there is a serious question related to title to property involved in the Bear Island suit. I am very concerned that with the best interests in the world the Ministry of the Attorney General is engaged in wishing to avoid the judicial determination of that question by trying to work out some kind of a negotiated settlement. I would like to have a complete, up-to-date statement of where that case is, what further obstacles there are before the issue will be tried in the court, if I understand the issue correctly, and any other comments Mr. Wright may care to make about it.

Mr. Wright: Mr. Chairman, we are still involved in trying to complete discoveries. It is a very complex case. It is a case which is going to be basically, I suggest, determined on documentary evidence. We have had our first round of discoveries. We are now completing the undertakings, et cetera, and producing documents. We have just been served within the last two weeks with an additional 300-plus documents.

Mr. Renwick, you must appreciate that some of these documents are very difficult to decipher. These are only copies of documents and the ancient handwriting is hard to decipher. A number of the documents are in French, which

require translation. It takes a great deal of time to go over each one of these documents to determine the relevance to each individual issue. That is where we are at the moment.

We are not trying in any way to avoid a judicial determination of this issue, but as in any other case, any counsel considers a determination of whether the matter can be settled before going through a very lengthy trial. My particular view, my personal view, is that I would like to see serious settlement negotiations entered into in this case before going to the court because I am not sure that the court will in the ultimate really define what aboriginal rights are. Therefore, I am not certain whether going through a very lengthy trial is the best way of approaching this matter. We are not trying to avoid that, but there is also a consideration of settlement.

Mr. Renwick: Are there any other claims in the field of aboriginal rights, Mr. Wright, at the present time in the province?

Mr. Wright: I believe there are. I do not have the information. This is the main aboriginal right land claim. Another one we are involved in deals with the Shawanaga Indian reserve, with respect to whether or not the road going through the Shawanaga reserve is a public road and who has control over that road. That is going to be coming up as well as an issue to be tried.

We are dealing with the bullfrog case. We are seeking leave to appeal that case in the Supreme Court of Canada on January 22. That deals with hunting and fishing rights of Indians.

Mr. Renwick: Is that the case which was dealt with in the court and is now under appeal?

Mr. Wright: That is correct.

11:30 a.m.

Mr. Renwick: I would like to ask you about that. I was going to ask you about that under the next vote, the common legal services one, but it may be appropriate here. I was very disturbed to find the Minister of Natural Resources (Mr. Pope) standing in the House and saying they were going to ignore that judgement and decision because the matter was under appeal. Are you saying that they took advice from the ministry on that matter or did the legal staff of the ministry give their own view on that?

Mr. Wright: I read what Mr. Pope said. What he said was that this was a serious case for the hunting and fishing rights in Ontario and he was going to recommend to the Attorney General

that the Attorney General seek leave to appeal. That is what we are doing, based on our own advice to the Attorney General.

Mr. Breithaupt: But in the meantime what was he going to be doing?

Mr. Wright: I do not recall that Mr. Pope indicated anything about the facts of that particular case affecting the policy now as to what the Ministry of Natural Resources is doing in hunting and fishing prosecutions.

Mr. Renwick: That was certainly my information in the House, if I heard him correctly. I have not read it again to confirm it, but what he was saying was that since it was under appeal, he was going to ignore it for the time being. How long will that case take to get to appeal?

Mr. Wright: First of all, I guess it is a question of whether or not we will get leave on the twenty-first. Then probably if we do, it likely would be heard in the fall.

Mr. Renwick: So it might be a year from now?

Mr. Wright: Yes, possibly late spring, but I would suspect in the fall.

Mr. Renwick: If it is appropriate, because it did relate to the constitutional problem related to the charter and aboriginal rights, what prompted the Attorney General to have that exchange of correspondence? What was the motivation or the initiation behind it?

Mr. Wright: It is the same concern which a number of provinces expressed. It is all well and good to put something in the constitution which preserves aboriginal rights, but what are they? The court has not even defined what they are. Therefore, that was the concern, that the process should be a subsequent constitutional conference which would sit down with the Indians as representing their views and come up with what aboriginal rights are. What is a definition of that? Before you can understand what you are entrenching, you should know what it is. I think that was the reasoning behind the Attorney General's letter. He was concerned that nobody really knew what was being entrenched.

Further to that, there was the provision that no act of Parliament or the province could depart from those rights. Therefore, no existing legislation could depart from what was there and no subsequent act could take away from that. The only way you would be able to change whatever was put in was by an amendment to the constitution. That was the real concern.

Mr. Breithaupt: Whatever it might be.

Mr. Wright: That is right.

Mr. Renwick: My sympathy is not with the constitutional lawyers on that issue, nor do I think I could necessarily counter all of your cautionary fears that are involved in what you said. Again, I just follow it as a matter of interest and only intermittently when I have an opportunity to do so. But the existence of aboriginal rights, whatever the content of the term may be, is no longer in dispute. What is in dispute is the ambit of the meaning of the term. In the slow processes of the evolution of the jurisprudence on those matters, it can ultimately only be decided by the courts.

It did not appear to me that entrenchment in the charter of those rights, with the provision for constitutional amendment to which they would be subject, but not the non obstante clause, meant that the courts would be able to pursue their evolutionary development of what in the English tradition means that they are not really making anything new. They are simply delving into the past to find out what it really was.

That whole process seemed to me in grave jeopardy. It is not a matter that could be settled by negotiation without people understanding what the rights were and what the contents were. A constitutional meeting on the issue is not going to resolve those matters short of the courts ultimately doing it. That was the framework in which I was concerned. When it was reinstated in the charter, I was very much concerned that it succumbed to Premier Lougheed's wish to have the word "existing" put in. I felt that will turn out not to be either a meaningless addition or a word of explanation, but ultimately a word of limitation.

Mr. Breithaupt: And diminishment.

Mr. Renwick: And diminishment. Those were my concerns on that issue. Could you hazard a guess about when the Bear Island case will go to court, assuming that the—

Mr. Wright: I could not hazard a guess.

Mr. Renwick: This century?

Mr. Wright: I hope this century.

Mr. Renwick: I hope I am around for the appeal. I want to register my concern. I think the matter is of such great significance in this province that it should not be a subject of negotiated settlement. Nobody is going to take my view on it, but I thought I would express it for what it is worth.

Item 2 agreed to.

On item 3, common legal services:

Mr. Breithaupt: I have no comment particularly on this matter. As members are aware, certain staff persons, while located in particular ministries to do work in particular for those ministries, still come under the overview and responsibility of the Ministry of the Attorney General. As I recall, this was done in order to allow for some opportunity of promotion and job transfer and a sense of belonging, rather than what might otherwise be thought likely to be a dead-end situation if a person was on the staff of the ministry in a small area and had no real opportunity for career advancement. So it was done in this form.

I suppose a question one could ask is, how has this worked out? Are people transferred from the director class, shall we say, the 20 that appear on page 55, back into the ministry to other tasks? Is some specialization useful as they move into other jobs, and does the career advancement opportunity, which was meant to pertain in this kind of a situation, actually result? Has the situation worked out as it was planned to do?

Mr. Wright: There have been transfers of directors. For example, the former director of the Ministry of Government Services is now the director of the Ministry of Natural Resources. People move up in rank. A person who was in the Ministry of Energy is now the director at Culture and Recreation.

11:40 a.m.

Mr. Breithaupt: So this seems to have some acceptance as a career opportunity which might otherwise be much more constrained if separation within the ministry had continued.

Mr. Wright: I agree with that. There has not been a great deal of movement, but the opportunity is there for those lawyers who want to take up these new positions.

Mr. Breithaupt: That is the important thing. I have no other comments if the situation is developing as it had been intended to, and we will just accept it for the service which in fact it is providing.

Mr. Renwick: I do not believe I have any questions under this. I never have understood the responsibility of the ministry for all of the common crown legal services throughout the various ministries. I understood it in the theory of it, but I have never understood it in the practice because a number of the areas of law are such that, by reason of specialization, for practical purposes it would mean that a refer-

ence back to the ministry itself would be asking the ministry to question someone who is an expert in the area.

I was thinking, only because I have a great respect for him, of the senior counsel in the Ministry of the Environment, Dr. Landis. He is a specialist in all aspects of the environment. I would doubt whether in your ministry itself there is anybody with a comparable knowledge in that field. Therefore, the role of the Attorney General in appearing, through the Ministry of the Attorney General to have this supervisory role, seems in many cases perhaps not to be carried out.

I have always tended to the view that over a period of time there should be more or less a revolving-door operation going on so that you have the benefit of specialization in particular ministries and particular fields, but you do not lock the particular person in that particular specialty forever and you have some counterbalancing generalization of experience within the ministry itself.

Mr. Breithaupt: Is that not allowed with the 116 legal officers who are in those varieties of positions so that they will have that opportunity to move back and forth?

Mr. Renwick: It basically does not happen, particularly in the areas of high specialization.

Mr. Wright: And the person may not want to move. I perceive that Mr. Landis is quite happy in doing what he is doing, having the policy input into the environmental legislation. Therefore, he probably would not like to be rotated to some other ministry out of his specialization.

Mr. Renwick: I am sure that is absolutely so, but it would not be the first time that people have been recalled because the theory of it is that the Attorney General could recall from any ministry and reorganize the whole of the legal staff. That is my understanding of the theory of it. Vernon Singer was the proponent of this, that the Attorney General was all of the law. I can still hear him saying that. That is the basic theory of it. It may be true a person would not choose to come, and I am not suggesting that you move him tomorrow. I am talking about the difficulty I have with the principle and the way in which it is functioning.

Mr. Breithaupt: My colleague Singer had that sort of papal view.

Mr. Renwick: Yes, he certainly did. I have expressed that concern before and I have no need to elaborate on it because the world will not change on that issue.

Mr. MacQuarrie: Mr. Chairman, while we are on the question of common legal services, I was wondering if you have noticed any increase in classified positions since that type of operation was adopted. I do know that when the federal government moved to somewhat the same sort of setup, putting all of the legal officers as members of the Department of Justice, there seemed to be an accompanying increase in classified employees. I wonder what sort of increase in staffing there has been, say, over the past three years.

Mr. Wright: We do not have any specific numbers. There has been a small increase. The way it works is that it is up to a particular deputy minister to determine whether he feels as though his legal services branch is sufficiently staffed in order to do the amount of legal work he has. The only way they can do it is transfer a classified position out of their administrative area and convert that into a legal position. There have been no actual complement additions to his ministry, but if he decides in his wisdom that he would prefer to strengthen his legal branch, he takes maybe an accountant's position—and that is just as an example—and says, "I want that position to be used in the legal branch." That is how it is done.

Mr. MacQuarrie: Is this sort of request screened by you?

Mr. Wright: Yes. It is a sort of combination submission to Management Board of Cabinet. It would not be approved unless the Attorney General felt it was needed and that the legal work could not be done by some other lawyer in government. I think the system works very well. Overall, there have been very few resources given to the legal services in government in consideration of the increase in government litigation.

Mr. MacQuarrie: In terms of structure, would the solicitors in the government service be employees of your department seconded to particular ministries? Is that the concept?

Mr. Wright: Yes, and there is a chargeback for their salaries to that particular ministry.

Mr. Breithaupt: In fact, that transfer of position to which you referred would be a requirement for you to arrange for an individual. Therefore, you keep control over any of these suggested changes or, if not control, at least complete involvement of acceptance of a change when the Management Board allows the transfer of that position.

Mr. Wright: That is correct. If it involves a new hiring, we do the recruiting with, of course, the input from the deputy minister.

Mr. Chairman: Are there any other questions on item 3?

Item 3 agreed to.

Vote 1404 agreed to.

On vote 1405, legislative counsel services program:

Mr. Breithaupt: This vote always gives the occasion to comment again upon the effort which is put forward by Arthur Stone and by the staff he has and which, at least in my view, serves the Legislature in its various emanations very well.

We have seen the revised statutes comes to pass, this decennial job which I would presume no legislative counsel would wish to go through more than once. It is almost a cruel and unusual punishment if you have to do it two or even three times. But that task of itself and the co-ordination of the expansion of the Ten Commandments into many volumes in this province is something which is a most precise talent and one which I think I can say for many of us is accommodated by Mr. Stone with particular dispatch and dedication. Certainly his efforts have been most appreciated by members of the Legislature as private members, as I am sure they are appreciated by the government, for the work which is done on behalf of the drafting of government bills and regulations.

11:50 a.m.

One area I would like to get some additional information on in this vote is the last line that appears on page 59, the matter with respect to the translation of statutes into French. I note from the responsibility area that is one of the functions and the that publishing these translations for public convenience where required in portions of the province is one of the tasks and commitments which has to be undertaken.

Could you explain to us, Mr. Stone, at least for my convenience, what these 23 statutes and their regulations are? If you do not happen to have the complete list, perhaps you could furnish a copy of it to me. Basically, what are the statutes? What is the program and the expectation of translation since I presume that not every statute in Ontario may have to be translated routinely? What is the situation for ongoing translation and what are the plans for the next several years?

Mr. Stone: I do not have at the moment a list of the 23 statutes referred to in the estimates. That is the number for the year ending April 1, 1981. Of course, it is only part of a larger body, which is now up to about 70. I can give you a list of those translated. You can have a copy if you like.

Mr. Breithaupt: What are the major ones? I suppose the Highway Traffic Act, for example, would be in greater demand than the stallions act.

Mr. Stone: The way it is worked out is that we respond to the priorities given to us by all the ministries. They are the ones that meet in the field the need for communicating through particular statutes and sets of forms. Basically, we get our priorities now through requests from the ministries and we respond to their needs.

Mr. Breithaupt: Do you sort out those priorities as best you can with your staff? Indeed, what staff is available for this task?

Mr. Stone: We have to impose a certain amount of screening ourselves because with a limited staff we cannot do them all at once. The demand has been very great. We try to get them all out, but we have to do them more or less two or three at a time. The present staff consists, you might say, of six professional either translators or translator-lawyers and one manager, one editor and two secretaries; that would be 10.

Mr. Breithaupt: What are the major statutes that have been dealt with so far?

Mr. Stone: The principal social legislation, such as the Family Law Reform Act, the Succession Law Reform Act and the Child Welfare Act. The largest ones we have done have been the Education Act and the Highway Traffic Act. The Provincial Offences Act is an important one. I could give you a list.

Mr. Breithaupt: Yes, I would appreciate receiving a list, particularly since the number is, as you say, up to 70 now, which is encouraging even out of the grand total we seem to have accumulated in six or seven volumes.

Mr. Williams: Did you cover the regulations as well in your questioning?

Mr. Breithaupt: Go ahead.

Mr. Williams: Perhaps I might ask as a supplementary, where are we with regard to the 1980 regulations at this point in the preparation, consolidation and printing of them?

Mr. Stone: The revised regulations?

Mr. Williams: Yes.

Mr. Stone: The revised regulations are distributed or are in the course of distribution. They were published and proclaimed, in effect, on November 16. The supplement includes those filed on January 1 up to November 16 and had to be converted to refer to the revision.

Mr. Breithaupt: Because of the references?

Mr. Stone: They actually amend what is in the revision. That should be published as a Gazette publication within one to two weeks from now.

Mr. Williams: In volume, regulations take up far more of your time than the government bills, do they? Or are you assisted in large measure by the legal counsel for the various ministries who do the initial drafts of these regulations?

Mr. Stone: No. Our staff performs the same function on the regulations as they do for the bills. The draftsmen will work on either as the work comes along.

Mr. Breithaupt: You do it entirely and the ministry does not give a draft to start with, or how does this work?

Mr. Stone: They do it with both regulations and bills at times. It depends on the subject. We reserve the right to start over, to accept or reject the ministry one or to make alterations to them.

Mr. Breithaupt: But you have the final say.

Mr. Stone: Yes, I believe that is the practice. Some regulations were recurring, and those of a more routine nature for some ministries, those ministries are able to put out because they are so routine and are something that is in our style, so we find very little to change in them. That occurs more in regulations than it does with statutes.

Mr. Breithaupt: Yes.

Mr. Williams: In fact, you are the backup resource people for the registrar of regulations.

Mr. Stone: Yes. There are eight lawyers in the office and they may work on either, as they are assigned.

Mr. Williams: I think the number of regulations for 1980-81 are up again considerably over the preceding year. Was not the preceding year around 1,000 or just over 1,000? I am going by memory now. I see here for 1980-81 you have 1,300 draft and 1,141 filed.

Mr. Stone: Yes. In 1979 the number of regulations filed was 962 and in 1980 there were 1,141 filed.

Mr. Williams: So it was just under 1,000 in the preceding year?

Mr. Stone: Yes, just under 1,000.

Mr. Williams: I knew it was around the 1,000 mark, so it went up a couple more hundred.

Mr. Stone: They seem to waver around. If you go back to 1977, it was 975; in 1978, it was 1,007; in 1979, it was 962; and in 1980 it was 1,141. So they are still wavering around that area.

Mr. Williams: I noted Mr. Breithaupt asked you in what areas or fields of law most of the statute law was enacted and you talked about social.

Mr. Breithaupt: That was for the translation. This was just with respect to some examples of the various statutes that had been translated, and we are going to get the list. I do not know whether regulations—

Mr. Williams: They are more in the planning.

Mr. Breithaupt:—follow those statutes. Have they also been translated in the ordinary practice? How is that handled? Is it just done when required?

Mr. Stone: When we say the statute is translated, it will include with it certain regulations that are considered of direct public interest.

Mr. Breithaupt: And forms.

12 noon

Mr. Stone: And the forms. They are pretty well the same accompanying regulations that the ministry publishes of all its consolidations.

Mr. Williams: Most of your regulations or the majority of them pertain to the Planning Act and the Highway Traffic Act matters, do they not?

Mr. Stone: There is a large quantity under the Planning Act, the exemptions to the general planning rules that have been a burden on the system.

Mr. Williams: I know the regulations committee has recommended that changes be made there too to avoid that burdensome amount of paperwork which is involved.

Mr. Stone: Yes. I think that it could be worked out and I know the committee recommended that, and that has been helpful. I would like to see it work out that those exceptions to the planning rules might be filed in, say, the clerk's office in the municipality with the other planning stuff, where people would normally look and not characterize whether it is a provincial regulation or a municipal one.

Mr. Mitchell: I have really only one question. I always assume this committee is to deal with estimates and, of course, that is the figure I look at. I look back to the figures which were

provided for 1979-80. I see what was estimated in 1980-81 and I see what was actually spent in 1980-81, which is about a 100 per cent increase. I presume that is primarily for the preparation and publication of the Revised Statutes of Ontario.

Mr. Stone: Yes. The estimate for the office, since it is strictly a service office and does not have programs, is very constant. But the addition in the last two years actually has been because of the purchasing for the revision. Last year we bought the paper, which is a very expensive item, and this year it is mainly the printing, the press work and binding. That is why it is split between the two years.

Mr. Mitchell: I am not quite sure I understand that. As I say, I see your actual figure in 1979-80 was \$800,000 odd. Then in 1980-81 you estimated \$2.2 million. You spent \$1.9 million. If that was for the RSOs, what then accounts for staying above the \$2 million in 1981-82? Looking at page 58, I see from your 1981-82 estimates at the bottom that the total is \$2.5 million, and yet on page 56, the summary page, it shows it at \$2,019,000.

Mr. Carter: Perhaps, Mr. Chairman, referring to page 56, if you read down the left-hand column, entitled 1981-82 estimates, you will see the figure \$2,549,000. Less the special warrant which went through in the spring, that reduces it to \$2,019,000. In terms of consistency, the \$2,549,000 shows up again on page 58.

Mr. Mitchell: That is fine. That is the one question answered. There were no special warrants in 1980-81, I gather. If the RSOs were the reason for the increase in 1980-81, which is what accounted for the roughly 100 per cent increase, what keeps it above the \$2 million figure in this coming estimate?

Mr. Carter: I think Mr. Stone could be more specific, but I believe we are talking about the statutes in one year and then the regulations this year.

Mr. Mitchell: All right. If that is the case, that is all I wanted to have clarified.

Mr. Carter: Two separate payments in two separate years.

Mr. Mitchell: Fair enough. It is a pretty costly printing bill in other words.

Mr. Chairman: Are there any other questions on vote 1405? Mr. Renwick?

Mr. Renwick: I have just two comments. Mr. Stone knows the admiration I have for the legislative counsel and his staff, and I need not

repeat that our caucus, as I am sure does each of the other caucuses, deals in a totally confidential way with the legislative counsel's office with respect to any matters that individual members may be working on. Perhaps there is no way of dealing with it, but I have noticed over the years—and I know that the legislative counsel has very little control over this—that we will get in one session of each parliament maybe two, three, four or five amendments to the Highway Traffic Act, for example, or to the Municipal Act, bits and pieces amendments. There are probably other statutes, but those are the particular two which come to my mind.

It should be possible, at this time, unless there are emergencies where we always have to deal with something else, for the Highway Traffic Act amendments to come through once in each session, and it should be possible for the Municipal Act amendments to come through once in each session. I think in most instances it is a waste of time for us to have to go through the same procedures in the assembly on bills which could easily be put in as compendious bills for those amendments.

For example, the other day we had an amendment to the Highway Traffic Act clarifying the question raised in the Stortini case. We have the amendment to the Highway Traffic Act now before us dealing with the RIDE question. I think earlier this year we had another Highway Traffic Act amendment. It does seem to me that there must be an obligation on the ministry responsible for those amendments to make certain that they come forward as a single bill which can be dealt with efficiently and well by the assembly.

The second matter, which I hope in an ongoing way the legislative counsel's office will look to, is that again only in very exceptional circumstances should the select committees of the assembly or any committee of the assembly go outside for counsel. With the attempt to develop our own ambit of Legislative Assembly services, I felt that the legislative counsel's office should be the first place that committees should look to for a counsel for a committee, no matter what the nature of the work of the committee may be, if the committee decides it wishes to have counsel, and some committees do not need to have counsel. I know that would be somewhat of an extension of the traditional function of the legislative counsel's office, but I think it is something I would like to put into the mill.

I think it was in the last parliament I had a

brief discussion with the legislative counsel one day when I bumped into him in the hall about that question. I think we should not go outside for counsel to our committees unless there is an extremely special reason. It seems to me that the place we should look to is to the office of the legislative counsel to provide from his staff, even if it requires a certain enlargement and development of his staff. I do not necessarily think that may be. I am not speaking of the work load. But there is no doubt there are lawyers there with the capacity to do such work. Again, I am not referring to work load. I am talking about the individual capacity of those lawyers to provide that legislative committee function if the committee decides it needs a counsel.

12:10 p.m.

The other point is that it seems a little bit anomalous that the legislative counsel has historically been in the Ministry of the Attorney General and not within the framework of the Legislative Assembly organization as such, the same as the Ombudsman and the head of the library and the rest. It is not that there is a Legislative Assembly vote as such. I accept the anomaly and I do not have a problem with it.

I do not think it needs any particular change, although if one could do things over, perhaps logic would dictate that legislative counsel would come under the Legislative Assembly vote because of the special service it provides to the assembly. I do not make a point of it, but I would appreciate it if the legislative counsel would care to comment on those first two points.

Mr. G. W. Taylor: I can only comment on the first one, subject to questions of Mr. Williams. I am in the hands of the chairman as to supplementaries.

Mr. Williams: I have a final supplementary, if I might, on that first point. As I understand it, Mr. Renwick, the thrust of your question was whether there is some way a number of amendments that may come under the same act could not be consolidated to minimize duplication, expense and so forth. You cited the Highway Traffic Amendment Act as an example. I do not have the answer to that. Maybe Mr. Stone does, but I know this situation also prevails when we come to the matter of private members' bills.

I guess I can cite two examples. I was just going through the Order Paper, but I do not have the one here that lists the number of private members' bills. There are two occasions in recent times I can think of when a series of

bills was introduced by your colleague Mr. Breaugh and also by the member for Etobicoke (Mr. Philip).

I think they each introduced a series of separate bills, all dealing with the Labour Relations Amendment Act in one case and the Residential Tenancies Act in another case. Mr. Breaugh may have had anywhere from—and I think Mr. Mackenzie did in the previous session—from five to fifteen bills, all concurrently.

Mr. Philip is the most recent example. He must have had upwards of half a dozen or a dozen. I do not have the numbers here and I may be exaggerating, but I know there was a series. I believe the question was raised at the time as to why they could not have been consolidated into one bill because of the obvious expense and duplication you are referring to.

I do not know what rationale was given at the time. I did not hear it, but it did seem to be an unnecessarily complicated way from a cost and ministry point of view when it could have all been lumped into one amending bill. I am wondering whether you could touch on that as well. You may have more insight into that.

Mr. Renwick: May I just make one comment about it? As you know, most of those bills never get to any form of debate. I understand what happens because my colleague Bob Mackenzie will often put forward a series of bills related to labour matters. The reason for it is usually the straight question of circulation amongst the interested members of the public, that is, within the labour movement, for example.

To send a bill which covers a number of points is not as informative as sending out a particular bill dealing with a particular issue that a particular area of the labour movement is interested in. So it is used as a form of communication, public relations advertisement or whatever you want. I would imagine that is probably the motivation behind the same process you referred to about my colleagues Mr. Philip and Mr. Breaugh.

Mr. Breithaupt: There is a point on that, Mr. Chairman. In the legislation we deal with, we often have a private member's bill printed that has just several paragraphs, a one-page kind of bill. Would Mr. Stone know what the cost would be to get that into the books of the members in the Legislature? That may not be important, but if somebody has 12 of them we may have to be a little mindful of that.

Mr. Williams: That is right. I accept the reasoning Mr. Renwick has given on behalf of his colleagues, but I am wondering whether that can be justified. Expense may be a secondary consideration, if it is more convenient to advise a certain sector of the public, but I—

Mr. Breithaupt: It should at least be considered on the basis of knowledge.

Mr. Williams: Yes, and I think if that is the sole reason, it should be decided whether there should be some constraints exercised as to the number of bills that can be introduced separately. Perhaps Mr. Stone could elaborate on that. Let us find out what the cost is, and then maybe it is something we would want to look at again in light of what the actual cost is.

Mr. Breithaupt: If it is \$20 or \$2,000, then we know what to do, don't we?

Mr. G. W. Taylor: Mr. Stone has the answer to your supplementary. As for Mr. Renwick's other one, when he talks about the Highway Traffic Act and the convenience of bringing all of those amendments through at one particular time, my brief knowledge of it is that although the Highway Traffic Act is being amended, the source of the amendment is usually from different ministries. For example, the Reduce Impaired Driving Everywhere program, RIDE, may be a particular policy change with the Attorney General, but he has to amend the Highway Traffic Act to bring about that change. In the normal course of events, a change in the Highway Traffic Act would have been through the Ministry of Transportation and Communications.

The other similar one, the Provincial Offences Act, would again be under the jurisdiction of the Attorney General. Another one sometimes, although you are still doing the Highway Traffic Act, is one initiated within the Ministry of the Solicitor General. They are all coming from different sources and some of them are direct changes in policy, such as the RIDE situation. It is an Attorney General-initiated policy and comes from that policy field, as compared to one coming out of the field of highway traffic or the Ministry of Transportation and Communications.

Since they follow different routes, and considering our legislative time and that time in the session, it might not be convenient to bring all of these forward at one time. For one particular bill going through, say, one such as the RIDE program, it may not be convenient to bring forward an amendment also to deal with traffic

lines on a highway or other features on a highway that are more akin to the Ministry of Transportation and Communications.

I can see that as being a problem, although I lean toward Mr. Renwick's point that for efficiency and convenience, why not bring them all forward. But I think it is, as they would say, the nature of this beast that it cannot always be done that way. Mr. Stone may have some more comments as to whether that is convenient or inconvenient as he sees it from his position as legislative counsel.

Mr. Stone: Mr. Chairman, concerning the number of amendments to the same act in the same session, we cannot and have never attempted to police a member's strategy or his relation with the House in any way. We can give advice, but if a private member wants to have his subjects divided up in a certain way, that is up to him. I do not think we should really be put in the position of trying to police that.

12:20 p.m.

Mr. Williams: It was not suggested they be policed. I think it was a question of inquiring what the cost is of bringing in an individual bill.

Mr. Stone: I think there may be some additional cost, but I do not think it would be significant. Generally, our printing costs are so much per page, which includes all the elements that have to go into producing that page, including the automated typesetting and the press work and the rest of it. Whether it comes out in two pamphlets or three does not make much difference.

Mr. Breithaupt: Approximately what is that cost, just as a matter of interest?

Mr. Stone: It is not under this vote. The actual printing is paid out of an appropriation from the Speaker's office, so I may not be that up to date. It would be something like \$40 a page.

Mr. Williams: In the example we used, where there may be a dozen amendments to the same act coming in concurrently, would that not involve a certain amount of duplication of staff time to have to process each one of them separately rather than under one amending piece of legislation?

Mr. Stone: Not really. As to the government bills, there are several factors. One is that sometimes if a minister has several important amendments, he would find it necessary to have the subjects separated so perhaps the House can deal with one more quickly than the others. He

expects one to take more time and does not want to hold up the others. He might divide it for that reason.

Mr. Breithaupt: That housekeeping phrase we hear.

Mr. Stone: Yes. Then again, of course, there are amendments with a year-long session. Necessary amendments arise at different times. When one is already in and another subject arises, we have to put that in. Before about 1970 when we converted to a more automated form of printing from the old hot lead, legislative counsel took two amendments to the Highway Traffic Act as an editorial matter at the end of a session and combined it to give it one chapter number. If you look back there, you will not find very many second amendments.

When we came to a change in the printing, it seemed wise to be able to finish those chapters as they were passed and received royal assent. We can then finalize the chapter for printing and it stands down in the shop ready for the annual volume with the chapter number on. In that case we are also able to give the public a chapter number immediately.

Mr. Breithaupt: You can follow it right through the system, even though it is HTA 1 or 2 or 3 in that year?

Mr. Stone: Yes, and when the annual volume comes out it does not take as long to prepare because we have prepared them for final printing through the year as they got royal assent. But then we do not know what is coming. If there is a second bill, we cannot incorporate it. So it is a problem. We would have to find some way of giving up something if we are going to amalgamate them. That deals with that subject. I think that is all I can say on it.

On the question of legislative counsel providing counsel for select committees, I think the question is really whether the House decides to create a counsel staff or to have counsel on staff who will serve committees instead of hiring them from outside. If that decision is made, then it is a case of where it ought to be put, as a separate group in the Speaker's office or those same people, with an additional number of people, put in the legislative counsel's office. In other words, it is that staff expanded.

The only advantage, if there is one, of its being the legislative counsel's office is that you would then be primarily hiring draftsmen, not counsel. The talents may be different and they would maybe have wider experience in drafting legislation for ministries and members, which

may give them valuable background as counsel committee or it may not. That depends on the committee. The present practice is that the draftsman attends any committee where his bill is being considered, or if there is a question of legislation, we now provide counsel in any matter having to do with a bill.

I think that is all, except the question of the function of a law clerk as against a function for government drafting. It is true that legislative counsel descended from the old parliamentary law clerk. The name was changed in the 1930s. They are recognized in the rules of the House as officers of the House. In that capacity we serve members directly and have a direct duty to the House. At the same time a lot of our work is government legislation, which is probably the major part of what goes in the House.

I think it works well the way it is. The Attorney General, as in all governments as far as my experience is concerned, has no difficulty recognizing our freedom to practise uninterrupted in relation to those matters where our duty is to the House, but being in the Attorney General's ministry, we are able to implement the Attorney General's interests in government legislation coming from the different ministries.

There is scarcely a bill where the Attorney General is not in some way responsible in that it affects civil rights, the administration of justice and standards having to do with the law. Those have to be superimposed in every bill, no matter what ministry it comes from. As members of that ministry, we like more clout with the government administrators who are submitting legislation from the other ministries.

Vote 1405 agreed to.

On vote 1406, courts administration program: item 1, program administration:

Mr. Chairman: Gentlemen, if you would keep your eye on the clock, we have only 12 more minutes.

Mr. Breithaupt: There is one question in this area that I would like to ask with respect to the Mewett study on justices of the peace. There have been a variety of recommendations and, no doubt, the 12 recommendations are familiar to senior staff officers. Who is going to be responsible in the ministry for setting in motion the apparatus which would be necessary for enacting these recommendations? I presume that the recommendations are being seriously considered. How does the Attorney General's

office intend to keep us advised of the status of these various recommendations and what is to be done with them?

12:30 p.m.

Mr. McLoughlin: Mr. Chairman, at the present time we have sent copies of the Mewett report to the judiciary, to the justices of the peace and the Ontario Crown Attorneys' Association. We asked for responses by November 19. We have some of those responses in. As recently as this week I had a request from some of the justices of the peace for a bit more time to co-ordinate their responses dealing with the justices of the peace throughout the province. We have a response from the justices of the peace in Toronto. We have a committee made up of the Deputy Attorney General, myself and representatives of the crown attorney system. At the time we have the responses and have them co-ordinated, we will start to consider fully the recommendations of the report.

Mr. Breithaupt: Do the justices of the peace outside of Metro require some meeting or opportunity to have a dialogue among themselves before they will make some recommendation, or will these comments be coming in individually from the several justices of the peace who may be in a county or a region?

Mr. McLoughlin: No, they are co-ordinating the responses. There are two groups. One represents the justices of the peace in Metropolitan Toronto and another group represents a great number of the justices of the peace throughout the province. The group representing the majority of the justices of the peace throughout the province has asked to have until the end of the year to have a co-ordinated response submitted to the ministry.

Mr. Breithaupt: Is that satisfactory within your timetable?

Mr. McLoughlin: Yes.

Mr. Breithaupt: It would seem reasonable. In the absence of having that other information, I suppose we really cannot discuss very much the particular recommendations, or at least that discussion would not be particularly useful until you know where you are going on this.

Mr. McLoughlin: That is accurate.

Mr. Breithaupt: I just wanted to know how this matter was coming along with respect to that form of program administration.

Mr. Chairman: We have about nine more minutes today. We are on program administration. I do know there is some concern about

courthouses and so on which will be coming. We are on courts administration both today and tomorrow.

Mr. Breithaupt: Although they are not here today, we can accommodate tomorrow any questions others may have. That is no problem.

Mr. Bradley: Now that they are building the courthouse in St. Catharines—

Mr. Breithaupt: It is an issue that involves Mr. Bradley at this point.

Mr. Bradley: —the Tories will take credit when they finally open it, but I will read the Hansards back to them on how I bugged the minister. Are you not getting one in Barrie too?

Mr. Renwick: I have nothing today on this particular area we are touching upon.

Mr. Chairman: Will you have something tomorrow on program administration?

Mr. Renwick: No.

Item 1 agreed to.

On item 2, Supreme Court of Ontario:

Mr. Breithaupt: There is one thing there, Mr. Chairman, that I think has to be raised, particularly as a result of the recent reports in the press concerning the views on contributions to pensions which the justices of the Supreme Court of Ontario have. We all saw the article yesterday when Mr. Justice Potts, as he now is, commented upon what Joe Potts was doing a little while ago with the Canadian Bar Association and its review of this particular issue.

We all recognize that it may be the sole responsibility of the federal government to deal with this subject. But I am wondering if we can be advised of any position that has been taken by the Attorney General with respect to the administration of justice in this province as to the concerns the judges have raised and the effect, or the perceived effect, that pattern of completely noncontributory pension expectations would have on the public service or on the general pension programs as they exist in Ontario.

Is there a position which is being taken or any comments which are to be made, or is the matter to be solely the responsibility of the federal government in the view of the Attorney General? You may not have the information and perhaps it cannot even be referred to at this point, but I would like a comment in any event from the Attorney General at his convenience just to advise us whether he is going to get involved or whether he does not see that as appropriate.

Mr. G. W. Taylor: I think, Mr. Breithaupt, I shall naturally bow to the Attorney General's final opinion on this, but one must recall, as I am sure you are aware, the financial distribution of how that is done in the jurisdictions under what was then the constitution as to who pays judges and their pensions. There has been a recent court decision as to how much those pensions must be and who must pay them and there has been a recent discussion in the federal parliament.

As you are aware it is not a provincial responsibility at this time, although there have been ongoing constitutional discussions as to who ultimately may be the appointer of judges to the different court levels in this country. I suspect it will always be ongoing until it is resolved in one jurisdiction or another. With that follows the question of who is going to pay the people who arrive at those positions, be it a federal appointment or a provincial appointment. I shall raise the matter with the Attorney General. I do not believe at present there is any discussion on pensions.

Mr. Breithaupt: One would presume that there will be the requirement to consider what might happen if that pattern is accepted for Supreme Court appointments since many of the arguments used would no doubt be seized upon by judges in other positions who might place a value on their independence, which at least is as high as the value of the contributions they would otherwise have to put into the pension pot.

Ontario, with its well-established system and the variety of courts which are operated at quite an expense, is going to have an impact on its programs and the financing of them by the result of this matter, however it is occurring. I appreciate the comments made by Mr. Taylor. At this point we can only express our interest in the subject and inquire as to whether a position is going to be taken and, if so, what it will be.

Mr. Williams: I was just wondering which court case Mr. Taylor was referring to and what were the attendant consequences of that decision.

Mr. Taylor: There was a discussion at the federal level as to how much of the salaries should be paid by the federal government and how much should be contributed by the individual judges. I believe the judges raised the position that the British North America Act said in federal terms that the federal government shall provide pensions for the judges. They felt,

I believe, that meant it should be a noncontributory pension scheme and that the federal government should provide the entire pension. This became a federal discussion by way of legislation when they got around to improving pensions and salaries in the last parliament.

Mr. Williams: I misunderstood. I thought you were referring to a specific court decision.

Mr. Taylor: No, I was referring to a discussion the judges and their representatives were having with the federal legislators and how much they were to contribute. I believe there was a problem because of the different times the judges were appointed as to the percentage they contributed to their pension. That was also in the same discussion.

Mr. Breithaupt: The judges who had been appointed after February 17, 1975, contribute seven per cent and those appointed before that date contribute 1.5 per cent. There are apparently some 650 federally appointed judges. I can see the concern among them, particularly with respect to their salary and various other perquisites. Their interest in those things, I am sure, is neither greater nor less than the interest of all of us in this room in our own situations.

We will wait to hear from the Attorney General if he chooses to comment on this particular matter.

Mr. Renwick: Mr. Chairman, I would appreciate it, even though this is not the public accounts committee, if perhaps the minister would comment tomorrow about the Provincial Auditor's questions or comments in his annual report, which was tabled yesterday, particularly on two aspects, not just the specific items. I am not asking that he take up a lot of our time.

Mr. G. W. Taylor: Mr. Renwick, having served on the public accounts, I was aware that those questions would be forthcoming today.

Mr. Renwick: The second aspect is why, apart from the substance of the questions, it appears from the report that when the matters were raised the Attorney General's ministry did not choose to respond to the original request. I may be quite wrong in my reading of it, but there is no indication that when the matters were raised there was a response to the Provincial Auditor.

Mr. G. W. Taylor: There has been a response to the Provincial Auditor's report. Usually the difficulty is in getting those responses from the ministry in time for the printing of the report. It is there. I think it will be incumbent upon the committee tomorrow to decide whether it wants

to take over some of the duties of the public accounts or whether it just wants an interested answer.

Mr. Renwick: No, I was not asking that. By the time that report and this ministry are dealt with in public accounts, I do not think the comments there are useful to have just hanging in the air. I do not want to have an argument. I would prefer it if a written statement were submitted to this committee tomorrow in response. That would be quite fine with me.

Mr. G. W. Taylor: The staff will prepare it and have those responses available.

Mr. Chairman: Thank you. Committee members, this is the day the ALERT machine is going to be demonstrated in an exhibition in the lounge just off the cabinet dining room. Mr.

Hampson is here to assist us or to accompany us or to help us. I think it was scheduled for one o'clock.

Mr. Gordon: I think we should get the whip to come down, Mr. Chairman, and try the machine.

Mr. Chairman: The committee whip? Yes, that would be interesting to see.

Mr. Breithaupt: There are certainly several members who may still, after a dozen hours have passed, not be considered to be in neutral for the start of this.

Mr. Chairman: Yes, it would be interesting to have that test. It is in a lounge just off the cabinet dining room.

Mr. Renwick: I would not know where that is. The committee adjourned at 12:43 p.m.

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 Williams, J. (Oriole PC)

From the Ministry of the Attorney General:

Carter, G. H., General Manager, Programs and Administrative Division
 McLoughlin, B. W., Assistant Deputy Attorney General and Director of Courts Administration
 Morton, H. F., Director, Crown Law Office Criminal
 Stone, A. N., Senior Legislative Counsel
 Takach, J. D., Deputy Director of Criminal Law and Director of Crown Attorneys
 Wright, B. Assistant Deputy Attorney General and Director of Courts Administration



Ontario

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Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of the Attorney General



First Session, Thirty-Second Parliament

Thursday, December 10, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, December 10, 1981

The committee met at 3:44 p.m. in room No. 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

Mr. Chairman: I see a quorum. We will begin.

On vote 1406, courts administration program; item 2, Supreme Court of Ontario:

Mr. Breithaupt: Mr. Chairman, we had placed a couple of questions yesterday in the presence of Mr. George Taylor, the parliamentary assistant. I do not know whether the Attorney General has had a chance to see those or not. If not, when he does, he might be able to respond to us.

One of the points I raised yesterday was with respect to recent comments in the press concerning the attitude of at least certain federally appointed Supreme Court judges with respect to their pension matters. I had asked at that time whether there was any input from or approach being taken by the government of Ontario with respect to that issue. I recognize that while it is a particular federal matter, yet just as the settlement for the seaway workers back in the 1960s led to a variety of ripples in our economy, some of which have still not subsided, we have in this case possibly an effect on the financing and the costs of the administration of justice for our provincial judges and others who might see that this was also a function of their independence.

Have you made any or have you been asked to make any comment with respect to this position taken by the judges? Do you feel it is appropriate or are you waiting to be asked?

Hon. Mr. McMurtry: I have not been asked. It is a matter, as you know, that is the responsibility of the federal government. Naturally, we are interested in issues of concern to members of the judiciary, even though they are federal appointments, because they carry out their responsibilities in Ontario and have responsibilities related very much to the constitutional responsibilities of the Attorney General. I say that because I did make representations to the federal government, to both the governments of Mr. Clark and Mr. Trudeau, with respect to their salaries. There was a long delay which

caused a great deal of controversy and, in my view, morale problems throughout the ranks.

Mr. Breithaupt: The long delay was most unfair. There is no question about that.

Hon. Mr. McMurtry: I made strong representations on behalf of the judiciary at that time to both governments. I have not done this with respect to their pensions. One of the reasons is that I have not been asked. Nobody has asked to sit down with me and review the details of their pensions. I am not totally familiar with all the details. I know some of the issues.

We are a little vulnerable in taking up the cudgels with the federal government as federal judicial pensions are much more generous than our pensions to our provincial court judges. It would be a little hypocritical for me to lecture the federal government, if I thought it were appropriate, given the fact that I believe our provincial court judges' pensions are lacking in generosity. Our pension scheme for our provincial court judges should be improved.

It is an issue I feel very strongly about. I asked Donna Haley, when she chaired the pensions committee, to take a look at that and to include that in her terms of reference. I think it is unfair, quite frankly, to our provincial court judges to be caught under the general civil service-public servant umbrella. I am obviously not in a position to lecture the federal government when I think we are not doing as much as we should for our own judges.

Mr. Breithaupt: That might well be the case. While recognizing that we may be unfair in dealing appropriately with provincial judges, there would be those who would say that to have a completely noncontributory scheme might be erring rather grandly in the other direction and have quite an effect on the costs of running the provincial aspects of the judiciary when its members too might think that was just a great idea. I would presume that all the attorneys general would recognize the effect that this suggestion would have on the costs of administration of justice in their own provinces.

It may be something which is going to occur, but I suggest to you that if it does, it is going to occur at quite an expense to our system for our

own provincial judges. Therefore, I would hope that the opportunity might occur when at least the attorneys general, recognizing what this might mean in their own provinces, would have a view as to whether it is such a super idea or whether the words "and benefit of independence of the judiciary" are being stretched just a touch.

3:50 p.m.

Hon. Mr. McMurtry: I am not familiar with the details. To my knowledge, this seems to be a relatively recent issue. It may not be in actuality, but it just has not come to my attention. I have to confess to the distinguished critic for the official opposition that I had a little initial difficulty appreciating the relationship of noncontribution to the issue of independence.

Mr. Breihaupt: I do too.

Hon. Mr. McMurtry: I must admit that was my initial reaction.

Mr. Breihaupt: I was just wondering if there was any progress in the area.

Another point I wanted to raise now that you have returned is something which had appeared in the press just in these last several days. You may be able to deal with this quite quickly. It is the matter of the missing, or at least delayed, report in the situation of the death of Frank Campbell and the removal of the second degree murder charges against his wife Sarah Campbell. I was noticing from the press comments that some delay—perhaps even a delay of two or three months—appears to have occurred and has been of some concern, particularly in the unfortunate circumstances where the woman in question is apparently now dying of cancer and this charge was a great burden to her.

I am not for the moment suggesting that in the circumstances, as they were reported, the laying of those charges was unreasonable because of a variety of other things which had appeared in the press. But with respect to the dealing with those charges, it seems as though a substantial delay occurred by someone not asking for a report, or a report not going to the proper person, and that has allowed this situation, whether it would have proceeded or not, to be delayed in a most unfortunate set of circumstances. I am wondering if you have looked into or have given any direction with respect to the matter of the report itself and whether you have found if, other than through a very unhappy combination of errors, this matter should have been dealt with in a more prompt fashion.

Hon. Mr. McMurtry: I will be happy to obtain further information for you. The only knowledge I have is the same press report you have. Was it last night that it appeared?

Mr. Breihaupt: In the last several days there have been articles about the matter which, I daresay, you have seen.

Hon. Mr. McMurtry: The first time I saw it was maybe last night when I got back from Ottawa. I was interested in the issue for the same reasons that you are. I would be happy to obtain additional and further information.

Mr. Breihaupt: That would be appreciated, particularly in these very unfortunate circumstances. It would appear from the information that the pathologist's report on the late Mr. Campbell was submitted, as it says, on September 6, as the normal procedure requires. Then we find that it was only several weeks ago that anything seemed to result from that. It may be that the report should have been picked up by someone else or should have been delivered to someone else or whatever. I can understand how delays of a week or two can occur in any busy operation. It seems unfortunate the delay was such in the peculiar situation to have caused quite some upset and turmoil to Sarah Campbell. I certainly would appreciate a review of it to see if there is a problem in the procedure that must be reconciled.

Hon. Mr. McMurtry: Yes. We will look into it.

Mr. Breihaupt: Another administration of justice point, Mr. Chairman, before we move on to the third item here, is one I was interested in, mainly because of the involvement of several other members of the Legislature, and because of a lengthy article that appeared in the *Globe and Mail* concerning the operations of the Ontario Humane Society.

You may say that is stretching the terms of reference of the committee. However, the report states that both Mr. Breaugh, the member for Oshawa, and Mr. Taylor, the member for Simcoe Centre, requested that the Attorney General at least consider the complaints which had been made with a view to resolving them so that various charitable bequests and other ongoing fund-raising work of the Ontario Humane Society would not be compromised by the difficulties which it is claimed have arisen.

I recognize that several persons and personalities have been involved in this situation. It seems to me that a number of valid questions have been asked and explanations sought for a

number of activities. Can the minister tell us, at least in response to the requests received from the two members I mentioned, if he is able to advise us when some report—if there is to be one—of his overview of the operations is likely to be received?

Hon. Mr. McMurtry: The press report was in error, inasmuch as I was asked in my capacity as Solicitor General, because the administration of the Humane Society Act comes under that ministry. But I am quite happy to respond to the question. A number of members of the Legislature have expressed some interest.

We have arranged for financial people in the Ministry of the Solicitor General to sit down with the officials of the humane society to discuss their activities and some of the concerns that have been raised. This has been welcomed by the directors of the society.

I have been reluctant to say very much about it simply because there can be sinister implications if it is thought that either the Solicitor General or the Attorney General is conducting an investigation, and that is not what it is. At this point, our financial people in the Ministry of the Solicitor General have been invited to have a look at their operation. I had not said anything about this in the Legislature because, as I already have said, I do not want to create the impression that there is some investigation going on.

Mr. Breithaupt: Of course. That is not my intention.

Hon. Mr. McMurtry: It is really not an investigation, but some people might assume that there was suspicion of criminality or something of that kind, which could do a disservice to an organization that has serviced the province very well generally. Discussions have been initiated, and it will probably be a few weeks before I am in a position to assess the situation.

Mr. Breithaupt: You would expect that at least some report would come forward as a result of these discussions, following which you may well take other action.

Hon. Mr. McMurtry: Yes, I will be getting some form of report from the officials in the Ministry of the Solicitor General.

Mr. Breithaupt: Is it your intention, since the Legislature will likely not be in session at that point, to make the report public or to make a statement? I realize one cannot ask what might happen because you do not have the report and have no knowledge of what it might suggest.

Hon. Mr. McMurtry: I do not even know what the form of the report will be. It depends on circumstances about which it might be unwise to speculate one way or the other. Perhaps I could leave it this way, Mr. Breithaupt. If it appears in the public interest to make a statement, I will; and, having made clear what is happening, if any of our colleagues in the Legislature are interested in pursuing the matter with me, probably I will share any information I have with them.

4 p.m.

Mr. Breithaupt: Mr. Chairman, I think that gives us an up-to-date comment on the situation for the record. Those interested may now wait for the promised clarification of the difficulties which have arisen. I agree with the Attorney General that it is not in the public interest to do other than to wait until these concerns are sorted out in order not to compromise the work of the Ontario Humane Society.

I had some other questions, but perhaps Mr. Renwick has something on this item, Mr. Chairman.

Mr. Renwick: Mr. Chairman, on item 2, I just want to read into the record the letter that my colleague, Bob Mackenzie, the member for Hamilton East, wrote to Chief Justice Howland of the the Court of Appeal for Ontario, expressing his concerns about the matters he addressed in the second day of these estimates. The letter, which is dated January 26, 1981, reads as follows.

"My dear Chief Justice:

"I am writing to you in my capacity as the MPP for Hamilton East and on behalf of my New Democratic colleagues in the Legislative Assembly from the Hamilton area regarding our concerns over problems with the administration of justice in our community.

"My concerns about the delays in the administration of justice led me to request a private meeting with the Attorney General early in October. On October 7 the Honourable Roy McMurtry met with myself and my Hamilton area colleagues, Michael Davison, MPP, Hamilton Centre; Brian Charlton, MPP, Hamilton Mountain; and Colin Isaacs, MPP, Wentworth; as well as James Renwick, MPP, Riverdale; David Warner, MPP, Scarborough-Ellesmere; and Patrick Lawlor, MPP, Lakeshore.

"At that meeting I outlined a variety of problems and concerns in the Hamilton area. The long delays in court appearances and trials and the numerous remands which are part of a

serious shortage of courtroom facilities and judicial staff were the major points of discussion, as well as concerns being expressed over some criminal investigations in Hamilton.

"I am enclosing a very preliminary outline of the problems as compiled from the Hamilton Spectator newspaper library, which was part of our presentation. The concerns about the court delays are noted in this outline, and I have talked to a number of lawyers and police officers who are also very concerned about the situation.

"Mr. McMurtry agreed that we had some definite problems, particularly in the area of courtroom facilities and judges. He suggested that he report back to us in some three weeks' time. On Friday, November 21, we again met with the Attorney General. Little more was accomplished other than a further confirmation of the need for more facilities and at least one more judge, as well as the resolving of certain delicate judicial matters.

"The minister did say he would be attempting to find the resources for additional facilities. A further meeting, at which the police and the crown attorney, Mr. Anton Zuraw, would be present was suggested. Subsequently a date of December 11 was set for this further meeting, but unfortunately it was cancelled due to the illness of the minister at the time. I have written to attempt to reschedule this meeting, but so far no date has been set.

"It is because of my very real concern about the administration of justice in Hamilton that I write to you with the outline of our efforts to date. I believe it is important that you, in your capacity as Chief Justice of Ontario, be aware of our concerns and actions in this regard. We are, of course, willing to discuss the matter with you at any time should you feel it would be helpful. My colleagues have agreed that I write this letter to you in our joint effort to have these problems resolved."

Mr. Chairman, my colleague sent a copy of that letter to the Attorney General, as well as to Chief Judge Colter, Chief Judge Hayes, Chief Judge Andrews and the Honourable G. T. Evans, the Chief Justice of the High Court, in order that they may be aware of their concerns. My colleague has repeated the concerns here.

From the Attorney General's remarks, I have a very real sense that there has been no progress of any significance in the Hamilton area. I reiterate his request, from my own point of view and from his, that a very special and specific effort be made by the ministry to deal with that Hamilton area question.

It is certainly not a matter high in the concerns which are expressed by the chief judges because in 1980 their reports on the opening of the courts and the report again in 1981 deal with a number of problems with respect to the administration of the courts. They mention places like Newmarket, Ottawa, Metro Toronto and so on, but there seems to be no awareness of this significant problem in the Hamilton area.

I do not think we need to indulge in any further debate. I urge that something be done about that extremely serious situation, which it can be said resulted in a beating in a public place and the death of a person. Although you cannot perhaps scientifically draw a causal connection, these are certainly indications of deterioration in the overall administration of justice of such proportions that it fosters the continuation of criminal elements and crime in that area. The administration of justice cannot escape responsibility for that unfortunate situation.

My colleague Mr. Mackenzie as well as myself and the member for Hamilton Mountain (Mr. Charlton) are at our wits' end about how to deal with the matter. It is not an issue that has significant political advantage one way or the other. It is simply a matter of deep public concern. I hope it will be given priority somewhere in the ministry and that the next time, without having to reiterate all the information, a statement will be forthcoming about the solution of those problems.

Apart from that, Mr. Chairman, I do not have any specific comment on this item. I have some comments on later items in this vote.

Hon. Mr. McMurtry: Mr. Chairman, I would like to respond to Mr. Renwick's remarks. Hamilton has been given a priority. We have frequent meetings with the senior crown attorney in that area, Mr. Zuraw. We requested additional courtrooms some time ago. As Mr. Mackenzie mentioned, we obtained Management Board approval for two additional courtrooms. There has been a rather prolonged and elaborate tendering process, and some delays have been caused by the city of Hamilton's attempts to persuade us to build the courtrooms in its old library, for which I cannot criticize them. It is only natural that they would want to find some use for that space.

These two new courtrooms are on stream, but will not be ready before the spring. We will expect to have the additional personnel to man

those two additional courtrooms. How many provincial courtrooms do we have in Hamilton now, Brian?

Mr. McLoughlin: Five that we are using for criminal purposes.

Hon. Mr. McMurtry: Does that include Dundas?

Mr. McLoughlin: No.

Hon. Mr. McMurtry: With Dundas the number would be six. Two additional courtrooms will represent an increase of one third of the existing courtrooms.

There have been a number of joint force activities in the Hamilton area. The RCMP, OPP and the Hamilton-Wentworth police force have been very active in that area. While all of us here are appalled, outraged and horrified by the vicious beating which occurred at Hamilton Place, I think to suggest that problems in the administration of justice are somehow responsible for this is difficult to accept. I agree, however, that early arrest and early trial are deterrents to this type of criminal behaviour. No one would question that. But the causes of increasing, often senseless, violence in our community are very complex in origin.

4:10 p.m.

I just want to assure the member for Riverdale (Mr. Renwick) and through him the member for Hamilton East (Mr. Mackenzie) that despite what he might think the ministry is giving the situation in Hamilton a high priority.

Mr. Williams: I have just a couple of matters, Mr. Minister. During the estimates of the Ministry of Consumer and Commercial Relations, we were talking about the computer program being developed to deal with conditional sales, bills of sale and things of that nature. It is a system that seems to be helping overcome a tremendous problem of sheer volume. I gather some effort is being made to totally computerize the search system with regard to sheriff's executions. My understanding is they are simply studying the possibility of implementing such a program, rather than having agreed in principle to proceed with it.

I was wondering if we are any further ahead than simply considering the possibility. I know that has always proven to be a bit of a bottleneck for lawyers attending the appropriate registry offices and closing transactions. There can be quite a lineup and delay in getting clearance of sheriff's executions on closing real estate transactions. I am just wondering where we stood on that situation because I think this does come under your jurisdiction.

Hon. Mr. McMurtry: I will ask for an update on that. I might make a preliminary observation about part of our problems with respect to these transactions. We are dealing with the Ministry of Consumer and Commercial Relations as far as the operation of the registry offices and land titles offices is concerned, as you well know, but our problems in the sheriff's office are related.

You may have had more experience in this field than I have had as a lawyer, Mr. Williams. It is a long time since I processed a real estate deal. One of the things I have always wondered about was the tradition of closing all real estate deals either at the end of the month or maybe halfway through the month. It does create significant pressure for basically two days a month. It is unfortunate it cannot be spread out a little bit more. I guess there are reasons I am not totally aware of that make it difficult. This is related to the sheriff's office and processing executions. But you wanted to ask about the computerization.

Mr. Williams: For the obvious reasons of my other obligations and commitments here, it has been some time since I have actively practised and participated in a real estate closing. It used to be a civil part of private practices of law at one time. Even going back a number of years, I think it had gone beyond the point of simply being limited to a bottleneck situation during the two traditional heavy closing dates of the fifteenth of the month and the thirtieth of the month.

It seems delays are becoming a daily occurrence in getting clearances on execution certificates and these are causing lawyers some difficulty in consummating real estate transactions smoothly with a minimum of delay and frustration. That certainly is emphasized on those particularly heavy days of real estate closings.

I am just wondering if we could have some update to know at what point we are in our efforts to streamline the system and assist the legal profession.

Mr. McLoughlin: We have a feasibility study under way at the moment. As a matter of fact, we are testing it in our own building. As you can appreciate, one of the difficulties we are wrestling with is what names will actually be searched when a requisition is put forward. What has been really holding us back on this is how to come up with something acceptable to the bar and to the administration of justice when a person asks for a certain name. The practice is varied to some extent in certain regions of the

province as to giving more or less information. Of course, this is aggravated in a place like the judicial district of York with a high volume.

I would hope we would be in a position within a few months to put a concrete proposal forward to computerize high volume areas such as York, Newmarket and Peel. There is no real problem in some of the jurisdictions that do not attract the high volumes of closings on a particular date. We are certainly moving forward with it.

Mr. Williams: I remember one of the problems used to be when a lawyer acting for a purchaser had a particularly involved title and there were quite a number of people who had been involved in the title over a short period of time. There would be a considerable number of names that had to be searched in execution. As a matter of practice in the local registry office here, I know that the sheriff's office would only accept up to a given number of names in any one search.

Lawyers were put in the ludicrous position of having to go and search 10 names. There might be 12 or 15 names they had to search to get clearance during the appropriate time period, so they would have to go ahead and do a second search as a follow-up. It can be costly too when one has to do it all over two or three days later. It seems to me computerization would be the only way of being able to handle the sheer volume of just dealing in one certificate where a host of names might be involved.

You say a feasibility study is in process. How far along are you on that and when do you expect a response?

Mr. McLoughlin: Within approximately three or four months I would think we would be in a position to actually have a system designed that we could put in. We are having some problems, as you do in these systems, with the algorithms which extract everything that is coded. It extracts certain vowels and so on from the names, and now we find there are names in the population that are all vowels. That is one of the problems we have been wrestling with. I would think we would have something in about three months. It has been under way for about two months now.

Mr. Williams: I have just one other question on this vote, if I might, Mr. Minister, with regard to the research going on to regulate court reporters. I am not as familiar as you would be with the court system in that regard. I gather the court reporters are controlled under a series of

statutes rather than just one. This has complicated the establishment of clearly set guidelines for them to follow to carry out their responsibilities. Perhaps you could elaborate, or have staff elaborate, on what the real root of the problem is and what effort is being made to consolidate it into one statute.

Hon. Mr. McMurtry: There are different methods and different views within the system as how best to record evidence. This has complicated the problem. There are some people who believe very strongly in the traditional shorthand recording methods. Others feel recording devices are a more accurate way of keeping an accurate transcript. Perhaps Mr. McLoughlin can assist us.

Mr. Williams: The note I have was rather general. It did not really identify the problem to one uninformed on how the court reporters are accountable at present. You said the unfortunate situation exists where court reporters are controlled through many statutes. I was not clear as to what the historical background of the problem was.

Hon. Mr. McMurtry: I am not really familiar with the number of statutes.

Mr. Williams: No, nor am I. That is why I asked. I just wanted some clarification.

Mr. McLoughlin: We have not as yet been thinking in terms of one statute to govern all the operations of court reporters, as they do have in some provinces. We have seen what has been done in some other areas and other specific concerns arising from the court reporting system. As the minister alluded to, there is some debate at present between the electronic devices and what they call the traditional method of reporting. Certainly some of the judiciary have strong preferences in those areas.

4:20 p.m.

To a great extent we are now using some electronic reporting, especially in backed-up areas in new courthouses with centralized recording systems. Other jurisdictions use this almost exclusively.

Mr. Williams: I understand a draft statute has already been prepared that'd try to meld together some of the existing controlling statutes, whatever number they may be, to give a clear definition as to how they should conduct themselves.

Mr. McLoughlin: Yes. The policy field is looking into that.

Mr. Breithaupt: That is an interesting point, Mr. Chairman, from Mr. William's observations. Has this draft statute you referred to been taken from some other jurisdiction that has pulled these various themes into one place? Are you aware of how that may have grown?

Mr. McLoughlin: I am sorry, I would have to speak to our policy people. I have yet to see the draft statute on court reporting, so I really cannot answer that for you at this time.

Mr. Breithaupt: I was just wondering upon which provincial law it may have been based.

Mr. Mitchell: On a point of privilege, I would like to point out that it seems we poor fellows are surrounded by lawyers and I wish to draw to the attention of the chair that some of us feel a little left out on this.

Mr. Williams: Do not feel bad; feel privileged.

Mr. Breithaupt: You do not have to worry about these things.

Mr. Williams: What are the time parameters here? When is this proposed statute or the material being worked on coming forward?

Hon. Mr. McMurtry: What we are doing is, as you know, a major revision of the rules of practice in the Williston committee. I guess it has been almost six years since we set up the Williston committee. There is an enormous amount of work and still a lot of drafting going on. As part of that, we will be trying to consolidate a lot of the rules governing the courts into one act called the Courts of Justice Act.

Just as an example, I thought the Judicature Act was not really a very helpful description. So it is called the Courts of Justice Act, and we are going to try to consolidate in one act all of the statutory laws in relation to the courts. We think this should be done in conjunction with the new rules of practice. There are some provisions in the Judicature Act now with respect to reporters. There are provisions in the County Court Judges Act with respect to who has administrative responsibility. Hopefully, it will all be in one statute.

Mr. Williams: You are looking forward to one omnibus bill that would cover a number of things, including the matter of court reporting.

Mr. Breithaupt: Just to follow up on that point, since the untimely death of Mr. Williston, who had a peculiar and particular interest in this kind of work, it would no doubt be difficult to find a number of other persons as intensely

concerned with such a myriad of details. Who has taken over the chairmanship of that committee, and is there sort of an ongoing expectation of certain time frames in which we now hope to have the rules redone?

Hon. Mr. McMurtry: The Williston committee did report, so in effect their work was completed. But I think the members in that committee recognize there is still a lot more work to be done in relation to the drafting. That has been taken over by a committee chaired by Mr. Justice Morden of the court of appeal. It has representatives on it of our ministry and of the practising profession, and Mr. Justice Morden has made a fairly significant time commitment.

One of the problems is to make sure the drafting is done properly. Given the many practical problems that can arise, we naturally wanted to have a significant involvement of highly qualified practising lawyers assisting us so that the profession would be satisfied that the drafting does recognize that there is a great deal of jurisprudence in relation to the existing rules and that there will be some obvious considerable carryover.

Part of our problem is related to the fact that it is important to have this input from the bench and the bar as well as from the policy people in our ministry. Mr. Craig Perkins, who is one of our senior policy advisers, is spending a very large percentage of his time on this whole project, but because it does necessarily involve the practising bar, as it should, and the judiciary, the time is being prolonged because these people cannot desert their other day-to-day responsibilities.

Mr. Breithaupt: I would recognize the requirement would take some time. The only opinion I would venture is that in having Mr. Justice Morden involved as chairman, you certainly have the right person. I think very highly of him, as I am sure do many. But that does not deal with the second portion of the question, which was when might this all come to pass? Are we still quite some months away? I will not hold you to a particular date, but I would like to know how it is coming along.

Hon. Mr. McMurtry: We know the new rules will not come into force before January 1, 1983. I think that is still our target date. That is bearing in mind that the work would be done before then, but the law society naturally wants to be able to conduct extensive educational courses prior to the coming into effect of the new rules.

Mr. Breithaupt: That is at least the framework in which you are working, something that might likely see completion some time in the spring, with the opportunity in the fall to have the courses to which you have been referring.

Hon. Mr. McMurtry: That is correct.

Mr. Breithaupt: There was one other question on this one area with respect to a recent comment I noted in the press dealing generally at least with the administration of justice. It is the matter with respect to the proposals made by the Solicitor General concerning the changes in the law with respect to the possession of marijuana and hashish. I read the article with interest and I must say that while I do not always agree perhaps with the Attorney General, I certainly thought it a most prudent and reasonable comment when he said he did not intend to comment as to the federal changes until at least he saw them.

This is a rarity for many politicians, but it is certainly a refreshing one. I was wondering if you could enlighten us as to when you might expect, or have you been given any reason to think there is a time frame during which you would expect to see some proposed changes, recognizing that you could not discuss them in detail with us?

Hon. Mr. McMurtry: I would be very happy to from what I know of them. Their approach to this issue is curious, to put it mildly. We had a little slide presentation during our conference yesterday morning where they talked about where they thought they were going and the sort of policy options they are seriously considering. I asked if we might have a copy of the slide presentation, but they said that would not be possible. We could see it but we could not take it away with us, except for the notes we could scribble.

4:30 p.m.

I do not say this in a partisan way because Ottawa has its own peculiar problems, as we all know, given the rather bunker mentality that often persists there, but the manner in which they consult with provincial Attorneys General and Solicitors General in relation to matters that have a direct impact on the administration of justice and law enforcement in the provinces is by and large quite unsatisfactory.

Mr. Renwick: That must be the understatement of the century.

Hon. Mr. McMurtry: It is very frustrating because I really do not believe they know what they are doing most of the time. I think they have an incredible absence of understanding of

the day-to-day problems with respect to law enforcement and the administration of justice, and that makes the whole process very frustrating.

Occasionally, they will consult in a meaningful fashion and some good results can be produced. Again, I do not want to prolong this discussion, but you happened to strike a fairly sensitive nerve with me.

Mr. Breithaupt: I was hoping I might.

Hon. Mr. McMurtry: The Deputy Attorney General was subjected to some fairly strident rhetoric from me in relation to some of my concerns as expressed, particularly to the federal Solicitor General, whose acquaintance with law enforcement issues is vague and superficial, to put it in the kindest fashion.

Here we are. We have the constitution off to Great Britain and we all, I think, have derived a certain amount of exhilaration from the fact that we have been able to solve this problem to some extent. But we never will reduce the tensions that exist between the federal government and the provincial governments until there are very significant attitudinal changes in Ottawa with respect to those provincial responsibilities, particularly in the area of the administration of justice and law enforcement.

We are quite prepared to make our senior advisers available virtually at any time because, quite frankly, some of our people have had a great deal more experience than the resources that are presently available to the federal government. They very seldom avail themselves of this opportunity because, it seems to me, most of their senior advisers do not really want to know what goes on in the real world because it could interfere with their philosophical approach to some of these issues. As a result, the degree of co-operation and consultation is very unsatisfactory.

I think the most recent discussion we have had with the federal Solicitor General over changes to the marijuana laws is a classic example of it. I should make it clear that most provincial Attorneys General share some of the concerns of our federal counterparts inasmuch as we want to remove some of the more harsh aspects of the penalties, particularly when it comes to minimum penalties for importing.

Mr. Breithaupt: Simple possession.

Hon. Mr. McMurtry: If it had not been for the fact that an international border was crossed, it would be treated as a simple possession case. Now that is clearly unfair. We do not want to see

people, particularly young people, because the effects of these laws are felt mainly by the people who are under 30, saddled with criminal records.

The federal proposals suggest at the moment that there be no record of any kind kept of past offences. This is of great concern to many organizations within the community, particularly the high school principals' organizations. They see the problems on a day-to-day basis with respect to use of marijuana and they are astounded by the suggestion that the federal government would treat an offence, if it is the one hundredth offence, as if it were the first offence.

Some of their proposals really defy one's belief. I took this up with the federal Solicitor General and described some of our concerns. I said: "I want it to be a criminal record. We do keep records, for example, under the Highway Traffic Act. I am sure it is known in the bowels of the Ministry of Transportation and Communication, if not elsewhere, that I have been convicted of speeding."

Mr. Breithaupt: I do not owe you any points at the moment. I want that clearly understood.

Hon. Mr. McMurtry: I don't know if I have any points at the moment.

Mr. Breithaupt: I did at one point. That could be dealt with in this computerized circumstance, with the passage of time or whatever, in an appropriate way, one would think.

Hon. Mr. McMurtry: The federal Solicitor General said: "Oh, well, the judges will know it. You don't have to keep a record. Maybe the police can tell them, but we don't want to keep any records." The whole thing has such an Alice-in-Wonderland approach to it that it just defies one's belief.

I have to tell you that conferences such as we had in Ottawa are very important to the administration of justice but very frustrating because the opportunity to engage in meaningful dialogue is not very good. We will continue to struggle. Our officials do meet fairly regularly. Having spent two days in our nation's capital, I do feel an enormous sense of frustration.

Mr. Chairman: Does that finish your questioning, Mr. Breithaupt?

Mr. Breithaupt: Yes, thank you very much, Mr. Chairman.

Item 2 agreed to.

On item 3, county and district courts:

Mr. Williams: I have just one query. Mr. Minister, I was looking at the statistical information on the civil cases in the county and district courts. It is noted that there has been a marked increase in the number of actions commenced over the past three concurrent yearly periods. There was a dramatic increase from 1978-79 to 1979-80 and almost as dramatic in the current year.

I guess there is no way of analysing the basic causes or reasons for the marked increase. It is noticed, of course, that the wheat is separated from the chaff when you get down and see what ultimately comes out in the way of judgements and orders. A lot of them are obviously settled or abandoned before they ever really are seriously proceeded with. Notwithstanding that, I was wondering whether the courts have any way of interpreting the sheer volume of cases that are coming forward. Is there any breakdown that has ever been attempted to determine what has given the greatest cause for the increase, other than that our society, it seems, is becoming more prone to sue anybody at the drop of a hat, so to speak?

Hon. Mr. McMurtry: There are a number of factors, one of which is related to the fact that the legal profession doubled in size between 1970 and 1980. That in itself does generate a lot more activity in so far as the administration of justice is concerned. One cannot be precise about it or exact, but there is a definite relationship and it is obvious.

4:40 p.m.

The trials tend to be much longer today. A different style of advocacy seems to have developed in the last decade. This is not peculiar to Ontario. I have been talking to people in other jurisdictions, including Great Britain, where, because of the specialization of barristers, one tends to think their trials are not as prolonged as ours. In talking to British officials within the past year, I learned they have found the same phenomenon of much longer trials for the same type of offences. It is just a product of the age.

Some people will blame it on the legal aid system. I have difficulty with that allegation. I believe the legal aid system is often made a kind of whipping boy for a lot of the problems in the courts. The odd trial may be prolonged, but I do not think the tariff is that generous to encourage many people to prolong trials for that reason. With the doubling of people in the profession,

we do have a much higher percentage of inexperienced counsel in the courtrooms than we had 10 years ago.

Mr. Williams: I think there was public comment made on that recently by one of the justices.

Mr. Breithaupt: Yes. To follow through on that, was there not a recent gathering at the University of Western Ontario to review the question of how many is enough? I have not seen any reports emanating from that conference, but it could be a very interesting thing to consider, perhaps more so when we are talking about the law society portion of the vote.

Mr. Williams: Was it back in the spring that some comment was made?

Mr. Breithaupt: I thought it was this past fall.

Hon. Mr. McMurtry: Yes, there was a conference in October at Western. I have not seen any report either. I have heard some of the comments and I am rather looking forward to reading the report because approaches have been made to me, by the law society quite frankly, to suggest whether or not the government might be interested—I do not say this is an official position of the law society, but just exploratory discussions—in funding the universities in such a way as to reduce the number of law students that could be in attendance at Ontario law schools at any one time.

I have to say I have indicated some scepticism about that approach, and this could change. There are a number of local law associations which have suggested this approach to the law society. My view may be a bit of a simplistic one, but when only one in five applicants—the applications are down this year, so it may change—accepted into law school, I do not think we should make it any tougher. I think people who want to should have reasonable access to law schools. They may not want to practise law. They will certainly know when they read the newspapers that a law degree is no guarantee of being able to make a living practising law.

Mr. Breithaupt: I think that is the appropriate point, yes.

Hon. Mr. McMurtry: I think market forces will take care of that, but to make accessibility to legal education more difficult than it is now is something that does not appeal to me very much. Maybe it says something for my own prowess as a student.

Mr. Breithaupt: I would not want to try to go through it now frankly.

Hon. Mr. McMurtry: There is no question. I was admitted to both medical school and law school with marks that would not perhaps allow me to get within shouting distance of either place today, I rather suspect. The doubling in the size of the profession certainly has had an impact.

Many of the prosecutions are more complex; much of the civil litigation has become more complex in an increasingly complex society. Our judicial review procedures and administrative review procedures have also created a greater accessibility to the courts, which I think is a good thing.

Mr. Williams: Going back to that earlier point you made, in our day there was just Osgoode Hall and Dean Wright's school. What are we up to now in the way of the number of law schools in the province with the universities providing the curriculum? Half a dozen?

Hon. Mr. McMurtry: I guess there are at least about 1,000 people graduating every year.

Mr. Breithaupt: Queen's, Ottawa, Western, York.

Mr. Elston: A notable addition is Western. It is a fine school.

Mr. Chairman: What school is that?

Mr. Elston: The University of Western Ontario law school.

Mr. Chairman: There is a law school there now?

Mr. Elston: Yes, with a very capable body of teachers.

Mr. Chairman: It does turn out competent solicitors?

Mr. Elston: Very. There are notable examples in the House today.

Mr. Williams: In the space of a couple of decades, I guess the volume of lawyers coming out is tenfold of what it was at the front end of that time period.

Hon. Mr. McMurtry: I know that there were approximately 250 called to the bar in 1958, and I guess there are around 1,000 or more now.

Mr. Williams: Perhaps I have exaggerated a bit.

Mr. Elston: Has that not been stable now for the last four or five years in terms of production of people?

Mr. Chairman: About 1,050, I understand, for the last three or four years.

Hon. Mr. McMurtry: By the way, I would be interested in the views of any of the members of

the committee with respect to this issue, as to whether or not there are too many students being allowed to graduate from law school. I have expressed my views. If any of the committee members disagree, I would certainly be interested in hearing those views.

Mr. Breithaupt: I am waiting for this report. I think it will be most interesting. I think it was Professor Courchene at Western who was involved in this and I wanted to obtain whatever summary there was of their deliberations, or it may be published in some law journal or whatever. I do not know that. I would think that the results of that view, if taken with some logic, may well see that the function of our community is to have regulations by which persons can enter the schools, and those who qualify so to do get into the system.

I, for one, would follow the view the Attorney General expressed, that at least those going into law school should be told what the odds are and the expectations of a variety of employment. I suppose the argument is that there is always room for a good one, but when one reads of a number of lawyers in the Windsor area on unemployment insurance and of the variety of mischief into which underemployed lawyers sometimes get in our society, in Hamilton and elsewhere, I just wonder if we are doing the people of Ontario much of a favour by not at least saying in advance, "These are the odds and govern yourself accordingly." That is the way I would much prefer it to be rather than trying to regulate admission and entry by cutting down even more so on the opportunity of persons to attend.

I feel that in my 14 years here I have legislated myself into ignorance as far as the daily practice of the common law is concerned, and I do not think I would be much of a threat to anyone in that league at this point. I would not look upon it as mischief at least in the same light.

4:50 p.m.

In any event, I look forward to reading more about how those deliberations are sorted out because I believe there is a concern that appears to be clear in the various county bar associations as to what all these new young people are doing, particularly in areas of the province where real estate development and other things have not gone on as some of us knew them six or 10 years ago. Certainly many of the graduates who are appearing are having a difficult finan-

cial row to hoe. However, we will have to all wait, I guess, to see what the long-term implications of that are.

Mr. Williams: When is this report supposed to be coming out?

Mr. Breithaupt: It was as a result of this conference in the fall, so I will certainly inquire as to whether there is anything. Knowing your interest and the interest of others, I will see if a few copies at least could be obtained for those of us that are a little mindful of this point.

Mr. Chairman: Perhaps, Mr. Breithaupt, the clerk could advise, or through the clerk I could contact the Western law school to try to obtain copies. Would that be helpful?

Mr. Breithaupt: That would be very kind, Mr. Chairman, if that could be done. It is just one of those things that I made a note to do and have not got around to as yet.

Mr. Chairman: I think all of us have noted the comments and have not seen the results of it or the conclusions of that.

Mr. Breithaupt: I do not know what the intention was. Whether it was to form an issue of the law quarterly press from the law school or whether it was to be published separately, I would have no knowledge. If the clerk could inquire as to what the intentions are with regard to a summary of what they did or how they intend to disseminate this somewhat more widely, it would certainly be of interest.

Mr. Chairman: We will.

Mr. Breithaupt: Thank you.

Mr. Chairman: Are there any other comments with regard to item 3?

Mr. Breithaupt: On item 3 I have only one other item. Since it is under the administration of the sheriff's office in the vote, this might be the appropriate time to raise it.

I am interested, particularly as part of our year of the disabled, in inquiring of the Attorney General as to what opportunities there are now in the various courtrooms for persons disabled in a variety of ways to have access to the courtrooms, perhaps to serve as jurors. Has anything much been done or has there indeed been a demand really, which we must also recognize, to have disabled persons, as part of their greater involvement in active daily life, become more involved in juries or even in the availability of access to attend in the courts for their own interests?

Hon. Mr. McMurtry: I think that is a very good question. You will recall that we recently

amended our Jurors Act to permit blind people to be jurors if they wished. It was my view, given the fact that a blind person is one of six or one of 12, that even with his disability he could still contribute meaningfully to the process. There had been some arguments put forward that they could not see the witness. Judges are always talking about having observed the demeanour of witness A or witness B and therefore come to a conclusion with respect to the veracity; so it becomes a catch-all phrase.

I think the answer I gave was that juries could benefit by people who were blind who wanted to serve because, from what we have learned about the other senses that have been developed, in so far as their sense of hearing is concerned, they could make a useful contribution. I think the issue you raise with respect to disabled jurors, jurors confined to wheelchairs and what not, is a very interesting proposal. It has never been suggested before. Nobody has come forward and said, "I have been precluded from serving as a juror because I am disabled."

I do not think we do preclude jurors that are disabled unless they wish to be precluded. I have always assumed that it would be possible for disabled individuals to receive notices to serve as jurors, but I must admit in my own experience, in which I have been involved in a number of jury trials in my years of practice, I do not recall seeing any disabled jurors in the body of the courtroom or on a jury. Perhaps, Mr. McLoughlin, you could assist us.

Mr. Breithaupt: It is not only a matter of serving on a jury, but access to the public area of the courtroom itself is something we are all more mindful of this year than we have really thought much about in the past. You may have some view on that.

Hon. Mr. McMurtry: The Deputy Attorney General just raised a good question that I think is worth repeating and something that would worry me about the other side of the coin, that is, having disabled jurors challenged by lawyers for one reason or another as might happen in a personal injury case. That would be worrisome if people felt they were suffering some discrimination for that reason. I guess access to the courtrooms and what not would vary from place to place. I have never asked—and perhaps it is a question I should have asked—how we deal with people who may receive a notice and who do have a disability. Obviously if they want to be excused, they are going to be excused.

Mr. McLoughlin: We provide every assis-

tance we can to a person who may be disabled. To answer your question, certain of our court facilities were designed at a time when full consideration was not given to the problems of people less fortunate. If those situations do arise, we make provision to get them access to the courthouse and into the courtrooms and so on. There is an ongoing program of government services now, which deals not only with court facilities but with all government buildings, to provide access for the disabled. It is an integral part of any design of any new facility.

Mr. Breithaupt: In response to Mr. Renwick's comments, you were mentioning several courtrooms you expected in the Hamilton area. One would hope then that all new facilities have considered in their construction these kinds of things which, I quite recognize, 10 years ago were not the kinds of items normally considered or even inquired into.

Mr. McLoughlin: Yes, definitely. As you suggested, the Hamilton building will have that kind of access. It is a building, by the way, that lends itself easily to that in any case, but we will provide it. There is generally some way of being able to give a person access, even if we have to resort to carrying him up to the courtroom.

Mr. Breithaupt: It is the attitude that is important at this stage, recognizing that it was not an expectation even 10 years ago, but now it seems to be more a view in society that this is a theme whose time has come and it is something we are all much more mindful of than we were 10 years ago.

5 p.m.

Mr. Chairman: Does that finish your comments with regard to item 3?

Mr. Breithaupt: Thank you, Mr. Chairman.

Item 3 agreed to.

On item 4, small claims courts:

Mr. Renwick: Mr. Chairman, since we are about two thirds of the way through the provincial court civil division project, I would like the minister to comment about it. Is it helpful? Is it successful? Is it raising the level of the status of the court? Is it functioning well? Are you at the point where you could make any interim report on it?

Hon. Mr. McMurtry: Yes, I would be happy to. I met with all the judges one evening over the summer to get their personal views as to how they thought the court was functioning and how we might assist it to function more effectively.

All the information I have—I may not have the total information—is very positive. It seems to have been well accepted by the profession.

I am told by the chief judge that the time between issuing the writ and the actual trial is relatively short. If people want an early trial, it is quite short. Mr. McLoughlin will correct me if my memory is not accurate, but I had thought that it is was not difficult to get a trial within three months after the date of the issuance of the writ.

Mr. McLoughlin: That is correct—45 days.

Hon. Mr. McMurtry: Then it is much less than three months. The scheduling problems, knowing just how many cases to put on the list, do not appear to have caused as many headaches as I thought they might cause. One aspect that has surprised me is that they do not hear any personal injury cases. It has a lot to do with inflation, just in the six years plus since I left the practice of law.

Mr. McLoughlin: They are all upstairs.

Hon. Mr. McMurtry: They are all upstairs. That has a lot to say about what the tariff is for relatively minor injuries if most people are still bringing these cases in the county court.

That was one area where I was a little disappointed. I was interested to see the results, particularly from the standpoint of lack of examinations for discovery. As you know, under the project you cannot apply to the court for leave to conduct an examination for discovery. The practice of the court, I am told, is to limit the right to examination for discovery to a relative small percentage of cases, again in order to keep down the costs of litigation and move along the proceedings. This has not met with any opposition I am aware of in the profession. But for personal injury cases, where insurance company counsel are very anxious to go into great detail with respect to the person's allegations, in many of these claims it has not been a testing ground. That was one area in which I was hoping we would have some experience.

We would like to be able to expand the project to other places in the province. Again, nobody has ever made a judgement as to when a small claims court can come into conflict with section 96. In Quebec they have gone up to \$5,000 and nobody has challenged it. If inflation unfortunately continues, that will vary from year to year. With the possibility to amend section 96 in the relatively near future, it may not be as great a problem.

I feel fairly positively about the project to date and I have heard positive reports. If there are negative views, they have not been communicated to me by my advisers, by the public or by the profession. We certainly would like to extend it. What we are interested in doing is creating a full-time small claims court judiciary across the province. The only thing that really is preventing us from doing that is the old resource problem. We believe that the citizens of the province should be served by people who are full-time judges. There seems to be quite a bit of interest in the profession so far as appointments to the provincial civil court are concerned.

I feel fairly positive about the whole project. Mr. McLoughlin might like to add some additional information.

Mr. McLoughlin: We had growing pains when the court first started, and that was on the basis of volume. We anticipated we would have 6,000 claims in the first year and we got about 12,000. The other was a resource problem, and the judiciary has been increased to meet that need. Also, we have had very excellent co-operation from our colleagues in the provincial court criminal division as to the usage of courtrooms. We are now sitting just about every day of the week with four, five or six judges on matters between \$1,000 and \$3,000. We had attracted a backlog at one point in time.

Our rule of thumb, not just for the provincial court civil division, but for all the small claims courts, is 45 days. We are there, I think, in all jurisdictions now, other than those where the court sits only every six months. That was a problem some years ago when cases were being set down nine or 10 months of the year in advance. We think we can maintain that level. There are signs that the claims are increasing again this year, but we do not think we are going to have anything as dramatic in increases, but perhaps 15 per cent over our original estimate.

I meet about once every two weeks with Senior Judge Turner to discuss the various problems we are both facing in the administration of that court and we are meeting with the judges as a group about once every six weeks to two months. We are in very close contact with the court.

Mr. Breithaupt: How many judges are there in this group now?

Mr. McLoughlin: There are seven judges sitting now in Toronto, but all the judges in the small claims court are also judges of the civil division and they are rotating. The judges are

coming in from Ottawa, St. Catharines and Hamilton to judge in that court, which is working extremely well. One of the reasons we were able to get out from under our backlog and to fix a date for setting down cases at a reasonable level was the participation of those judges as well.

Mr. Breithaupt: What is the total number of judges in the civil division.

Mr. McLoughlin: At the moment we have 10, seven in Toronto, one in Ottawa, one in Hamilton and one in St. Catharines.

Mr. Renwick: What is the intention? Are you going to have a balanced assessment of the result of it and then are you planning to extend it rapidly, or are you at the point now where you can say it has been successful and you do not need to wait the other year before making plans to extend the system? What little acquaintance I have with it, plus the concept as it was originally presented in the House, is one which has a lot of attractions and merit to it, apart altogether from raising the status in the eyes of the public of the judiciary dealing with those questions.

Mr. McLoughlin: At the moment we have a formal study under way as to dealing with the court, the public acceptance of the court and the impressions of the judiciary. Statistical information is being built up.

Mr. Renwick, with respect, I could answer part of your question by saying that in my opinion it is a roaring success. As the minister has indicated, it is a matter of resources on the extension.

Mr. Breithaupt: I suppose you would be inclined to approach the federal government on the basis that since you are appointing judges who have traditionally done the work of the county court judge, you might like to get a certain contribution since those individuals will now not have to be appointed and therefore will not be a cost to our federal brethren.

Hon. Mr. McMurtry: It sounds like a very good idea. I do not hold much hope for a positive response.

5:10 p.m.

Mr. Breithaupt: I do not hold much hope for it either.

Mr. Williams: As I understand it, Mr. Minister, there are really two elements here in this project or program with the establishment of the provincial court. One was increasing the quantum factor from \$1,000 to \$3,000 to let this

court deal with cases which were originally within the jurisdiction of the small claims court save and except as to quantum.

In addition to increasing the amount of what one could claim for under that original jurisdiction of the small claims court, there was the other element that set the jurisdiction of the small claims court under the provincial court. It was broadened to incorporate the grounds under which one could bring actions in the county court. So there is a broadening of the jurisdiction of the provincial court in that sense as well.

Am I not correct in that we are really looking at those two elements? If that is correct, then I wonder if any determination has been made in this initial assessment as to whether the bulk of the cases before the provincial court are related to cases that would normally have fallen within the original jurisdiction of the small claims court except for limitations on quantum of the claim. Or has it been largely attributable to giving a broader jurisdiction to this provincial court that incorporates some of the areas under which one could bring an action under the county court?

Hon. Mr. McMurtry: The only real change was as far as monetary jurisdiction is concerned. I cannot think of—

Mr. Williams: Under the provincial court there was no expansion of jurisdiction to permit the provincial court to deal with actions concerning land or testamentary matters or actions involving malicious prosecution or anything of that nature?

Hon. Mr. McMurtry: No.

Mr. Williams: So it is strictly the quantum factor that is involved here.

Hon. Mr. McMurtry: Yes.

Mr. Williams: My recollection is that it may have included the other as well.

Mr. Chairman: Are those your questions, Mr. Williams?

Mr. Williams: Yes. I just wanted clarification on that.

Mr. Renwick: I have one further question on the small claims courts. I suppose I have left your opening statement, Mr. Minister, beside my bed. I read it every night. I do not recall seeing any reference to the extension of French-language services to the small claims courts. The last information I have—and it is not particularly up to date—is that it is only in

Ottawa-Carlton. It was a priority of your ministry to extend that. Could you correct me if I am wrong?. I do not want you to repeat yourself.

Hon. Mr. McMurtry: Yes, we are extending this to the small claims court.

Mr. Renwick: If it is in your statement, then I can read it, but if it is not—

Hon. Mr. McMurtry: My recollection is that it is in the statement. For example, we will be able to have bilingual trials in the small claims court in Metropolitan Toronto as well as in a number of other centres by April 1.

Mr. Renwick: I will check your statement tonight when I am reading it before I go to sleep.

Hon. Mr. McMurtry: That should put you to sleep.

Mr. Elston: Mr. Chairman, if I might, I would just like to ask the Attorney General if he has had any reaction from the judiciary as a result of the series of articles which have come through the press concerning the ability of the children's aid societies to deal with their mandate. I would like to know whether they have concerns and, if they do, whether steps are being taken to alleviate those concerns.

Hon. Mr. McMurtry: I have not had any concerns of which I am aware communicated to me by any members of the judiciary.

Mr. Elston: This sort of ties in with the report which is to be made on the Kim Anne Popen case.

Hon. Mr. McMurtry: Yes.

Mr. Elston: I wonder if you have any sort of thoughts on when that is going to come around.

Hon. Mr. McMurtry: Yes, I certainly have thoughts and I even have hopes.

Mr. Elston: Any definite dates at all?

Hon. Mr. McMurtry: The chief judge stated to me the other day the best information he had was that it would be available by the end of the year.

Mr. Elston: Of this current year of 1981?

Hon. Mr. McMurtry: Yes, this current year.

Mr. Elston: We have had a few deadlines before.

Hon. Mr. McMurtry: The chief judge knows we are interested in it. We regret the delay and we know it is difficult for the public to understand. At the same time, although it would have been helpful to have had the report earlier, the very fact there was the public hearing did lead, I am told, to a very significant number of changes in the procedures governing the children's aid society.

I only mention that because I think the impression may have been created that all the appropriate changes have been stalled pending the receipt of the report. There may be additional changes made as a result of the report, and I certainly would have preferred to have seen the report tabled a long time ago.

Mr. Elston: It has been a very exhaustive study and I think it is very important. My initial question was with regard to the perspective from which the judiciary would view these very numerous articles which have again come up. The working relationship between the court, the CAS and the members of the practicing bar has to be a very good one. I was just trying to find out if there were any serious concerns being placed before you, or if there were any suggestions being made to help alleviate the type of problems listed in the paper.

Secondly, I wonder about the reaction of the judiciary to the use by the provincial court, family division, of the representatives for the children. Has there been a standardized guideline set for them as to when to use these child representatives and how many to use? I was involved in a particular case where there were a number of children who had learning disabilities.

It turned out there was one representative appointed for that group of children for a hearing before the provincial court. Later on one child thought he might want to do something different to the rest. The judge was really at his wits' end and ended up having to appoint someone. I think he made the right decision, but I wonder if there are any guidelines as to when to use them and when not to. The CAS has a role in that as well.

Hon. Mr. McMurtry: Are we talking about child welfare cases, section 20 cases under the Child Welfare Act?

Mr. Elston: Yes.

Hon. Mr. McMurtry: Mr. Lloyd Perry, the official guardian, has had his people conduct seminars across the province on the issues of child representation. I do not have section 20 in front of me and I forget precisely what is in that section, but it does, as I recall, attempt to set down some legislative guidelines with respect to child representation.

I would have thought, normally speaking, it might have been difficult for the same lawyer to represent more than one child, but again one would have to know the circumstances. This is an issue that is continuing to be debated as to

just what the precise guidelines should be in representing a child. I gather you are talking about guidelines for the judges in appointing any kind of representation.

5:20 p.m.

Apart from the statutory guidelines, appropriate application and judiciary common sense are obviously required to decide when it would be in the interests of the child to be separately represented. Guidelines are difficult. We are looking, of course, at the experience we are gaining, but I have not had any suggestion from the judiciary that this is a particular problem for them. That does not mean to say it is not. But it has not been suggested that they require any legislative guidelines other than those already laid down.

The Deputy Attorney General is making the point that these issues are a matter of ongoing discussions as the provincial court judges meet on a fairly regular basis. That is a developing field, as you are fully aware.

Mr. Chairman: I believe we inadvertently sort of snuck into item 5, so if there are no other comments on item 4, shall item 4 carry?

Item 4 agreed to.

On item 5, provincial courts:

Mr. Chairman: Perhaps Mr. Renwick could speak. Mr. Breithaupt did indicate he wanted to say something. We will see about that. Mr. Renwick, would you carry on?

Mr. Renwick: I have two matters about the provincial courts. The second one is by far in my mind the more important, although the first one is something that intrigues me a great deal.

What is the collection process at the present time with respect to the fines levied in the provincial court system? There must be a fantastic backlog of unpaid fines. I know a lot of work has been done to try to speed up that process. I do not have any special knowledge or any statistics, but I understand if, for example, a person was in court before the end of this year, say, this month some time, on an impaired driving charge and was fined \$150 or whatever it was, he would be given 60 days to pay or three months to pay or whatever the appropriate time was. If he failed to pay, it would probably be 1983 before the warrant was actually out for the arrest of that person. In other words, people who are walking around thinking, "Well, when the 60 days or the three months have expired, something serious is going to happen," could probably rest pretty comfortably for at least the

next six months and perhaps longer. I am talking about Metropolitan Toronto. It must represent a vast number of dollars.

Hon. Mr. McMurtry: We will hear from some of our advisers and administrators in a moment, but the major problem, I am led to believe, is not in relation to Criminal Code matters. It is in relation to highway traffic offences and particularly parking offences. This is why we have been attempting to develop a system of plate to owner in order to facilitate the collection of these fines.

There is no question there are enormous human resources required to go out and execute warrants dealing with this large number of fines. We think it would make much more sense if it were tied in to the renewal of one's licence. Then it would be a much more practical way to do it. The Ministry of Transportation and Communications is still developing the plate-to-owner system. I should not say they are just developing the concept. From a technical standpoint there are a number of wrinkles to be worked out, but I like to think that is well on its way. It is a major problem, involving millions of dollars of outstanding fines.

With respect to Criminal Code matters, I had not thought that it was much of a problem except for the obvious drifters and so on. The problem is related to police resources and the cost of executing these warrants. Perhaps it would be better if we heard from some of my colleagues about the dimension of this problem.

Mr. Renwick: My specific question is not related to the time after the warrant has been issued and is in the hands of the police because the actual service of the warrant is a resource problem. I am talking about the process of getting the warrant into the hands of the police, which I understand takes a long time.

Mr. McLoughlin: Only in Metropolitan Toronto do we have a problem. Throughout the rest of the province we are up to date, within about 45 days. We are about nine months behind with the issuing of warrants of committal in Toronto.

Mr. Renwick: The example I gave is not an unrealistic one?

Mr. McLoughlin: No, it is not unrealistic at all. Unfortunately, because we are cranking up to deal with this portion, we are putting so many into the hands of the police that they cannot deal with them. As the minister stated, until we get on to plate to owner and come up with a new system, just by sheer volume we are going to face this problem.

Mr. Renwick: You should consider some suitable occasion, such as the birth of a child to the Princess of Wales, as a suitable time to wipe them all out as an act of executive clemency and start all over again. It looks like you are not going to solve it.

Mr. McLoughlin: Or the public might pay them as a tribute of support, which would probably be better for the administration of justice.

Mr. Renwick: I think it is a serious problem and possibly an insoluble one. You solve one part, then the other part becomes equally difficult.

Mr. McLoughlin: That is it exactly. The court issues it and shifts the burden to the police, who have the difficulty.

Mr. Renwick: It takes forever to find the people and to deliver the warrants. I do not know how one deals with that problem.

I raised it not because I have a solution, but simply to indicate I wanted some confirmation of whether or not that was the problem. I think there is going to have to be some drastic takeout on that, almost a new start, or the system will never get caught up on it. You cannot take all the policemen in Toronto off all their other duties for a week while they serve the warrants, assuming they can find the people to serve them against in the first place.

My second point is a matter I raised two years ago and I have not followed it up since that time. I do not want anyone to think I have any initiative other than my own in bringing it up again. I do not get involved in the remuneration of senior court judges, but I am very much concerned that we have a first-class provincial court, and that brings us to the question of judicial compensation. I assume that any system of justice such as ours will equate the provincial court judges at all levels with the same scale of the county court judges at least. That seems to me a reasonable goal.

There does not seem to have been much progress in the process that was set up. I forget the exact details, but from my notes made when I raised this matter in 1979, I see that for a time prior to 1979 there was a Premier's committee on judges' remuneration. The minister was a member of this committee, as was Mr. Wells, and I think Mr. McCague was also a member.

5:30 p.m.

I understand that since that time a number of recommendations were worked out by a committee, submitted to the Premier and have since

been in some state of review. I also understand the two sides are separated by a trough of lethargy which has been allowed to develop and which is impeding the settlement of these matters.

I am also concerned about the question of pensions, which also has raised general concern among the provincial court judges. The Donna Haley pension report has indicated that pensions should be hived off and dealt with separately, and I gather that the principle of that has been dealt with. The reason for my continuing concern is that we have never quite got around to treating provincial court judges as judges. Mr. Breithaupt earlier referred to a problem that one of the judges had raised at the upper level about the status of the judges in negotiating pensions.

In my opinion, the judges of the provincial court have been placed in a demeaning position by the whole relationship between the executive branch of the government and the judicial branch in establishing judicial compensation for the provincial court judges, in resolving the question of pensions satisfactorily and in establishing some process of reasonably automatic adjustments. The simplest way, it seems to me, and I do not understand why it cannot be done, would be to apply to them the county and district court judges' scale of remuneration and fringe benefits, and whenever that is adjusted at the federal level, to adjust it for the provincial judges here as well.

I hasten to add that very few people in my riding ever get to the county courts or to the Supreme Court so that it is not a matter of great concern. The few that do get there would just be transients who happen to hit the criminal circuit, but they are not people from Riverdale and were probably just picked up passing through. The contact of the people in my riding with the court system is with the provincial courts. For years I have always felt that any steps which are taken to establish the judicial independence and the high quality of that bench is terribly important.

Can you give me any indication of where this strange process is at present? I think it is bogged down. That is my view of it.

Hon. Mr. McMurtry: I think the judges have done quite well in the last two years. As of April 1, 1980, a provincial court judge's salary was \$51,000. A year later it had gone up to \$62,000.

Mr. Renwick: They are now at \$62,000?

Hon. Mr. McMurtry: Yes. I think they have

done very well in the last two years as far as salary is concerned. Anybody who suggests that nothing much has happened is not giving you accurate information.

Mr. Renwick: What about the county court judges?

Hon. Mr. McMurtry: I think it is around \$67,000 now.

Mr. Renwick: Is that \$67,000 plus the increment they get?

Hon. Mr. McMurtry: I do not think they had received a raise for several years. The ones that were really bogged down were the federally appointed judges.

Mr. Renwick: What increment do they get?

Mr. McLoughlin: It is \$3,000.

Mr. Renwick: They get \$70,000. Is that right?

Mr. McLoughlin: It is in that range, Mr. Renwick. I am not sure of the actual figure.

Mr. Renwick: Subject to checking it out, there is still a reasonable difference between the two.

Mr. McLoughlin: At one point, I believe, the provincial judges were either slightly ahead or just behind the county court judges by a year or so.

Mr. Renwick: That is where I left the matter. I did not raise it last year because I thought they were neck and neck at that time.

Mr. McLoughlin: Just about. But the county court judges had not had an increase for some period of time.

Hon. Mr. McMurtry: I think the salary increase has been very satisfactory. It has moved along very quickly. I am talking about \$11,000 in a single year.

Mr. Renwick: Yes. The first time I raised the matter, which was two years ago, the figure was about \$46,000, I think,

Hon. Mr. McMurtry: In two years they went from \$46,000 to \$62,000. I think they have fared not too badly. You are correct that some issues remain outstanding with respect to their pensions. I have made it very clear that I think they should have a different pension arrangement. I think their pensions should be based on the same principles as apply to federal appointments with regard to vesting and the number of years to be served to qualify for a full pension.

I think we are attracting pretty highly qualified people now. We receive a number of applications because I think it is generally agreed that the salary is a respectable one. On

the matter of parity with county court judges, I am not going to suggest that provincial court judges are any less important to the administration of justice because they clearly are not.

We are usually pretty frank in this committee, so I can say there are difficulties in dealing with my colleagues around the cabinet table and with central agencies of government to persuade them that provincial court judges should be treated in total isolation from what is happening in the rest of the government, for it is important that we retain highly qualified people in our crown attorney system.

I would also like you to hear that the Attorney General, given his many years of experience in the system, would tell you, and I do not think he would have any difficulty convincing you, that if you look about the province, you will see that our senior crown attorneys have traditionally played a crucial role in maintaining the high level of administration of justice in the province.

One can argue philosophically that there should be no relationship between the provincial court judge's salary and a senior crown attorney's salary. However, living in the world we live in, one cannot ignore the historical relationships that have existed for many decades. While I am very much concerned that our judges receive the fair remuneration they deserve, we cannot ignore the problems of the senior legal counsel in the crown attorney system, and indeed elsewhere, if we are going to maintain a high level of administration of justice.

From many of the comments they have made to me privately, I think the judges are generally quite content with what they have achieved from the salary increases in the last two years. They feel more progress was made than most of them had expected. But I agree that there are unresolved issues, such as the pension and the ongoing formula. There is no question but that the establishment of some formula, so that judges do not have to negotiate with the government, is highly desirable. When I became the Attorney General I made it very clear I would not negotiate with the provincial court judges because it would be so clearly wrong to have the person who is responsible for prosecutions in the province negotiating salaries with the same judges who hear most of these cases.

5:40 p.m.

We in the ministry have always been very supportive of provincial court judges in their requests and their dealings with the Chairman of Management Board of Cabinet (Mr. McCague).

We were instrumental in establishing the committee that was chaired initially by Mr. Shepard and had on it Mr. Butler, the secretary of the Management Board, and Mr. Arthur Maloney.

Mr. Renwick: Butler has gone, has he not?

Hon. Mr. McMurtry: He is leaving at the end of the year. Mr. Butler has been replaced by—I thought I had heard some name, but I guess I have not. He is leaving at the end of the year, yes.

Mr. Renwick: Perhaps someone could make a note to let me know who is going to represent the government in the discussions that go on after Butler leaves.

I still do not understand what the process is. Are they supposed to meet regularly in review on an annual basis, is there some sort of schedule, or is it purely an ad hoc arrangement?

Hon. Mr. McMurtry: They certainly met fairly frequently for a period of time. I will try to have some additional information for you tomorrow as to just how the process will unfold from here on. With Mr. Butler having announced his intention to leave the government service, it has created a bit of an hiatus.

Mr. Dick: If I might, Mr. Chairman, the usual date—and it has been so for the last several years—for the salary to take effect is October 1. Prior to that time, since its inception the committee has got together at the request of the chairman in anticipation of the salary-fixing date of October 1. In the past few years when the committee has met, it has been meeting through the spring and perhaps into the summer.

Mr. Renwick: I am curious to know whether it met this year.

Mr. Dick: It did meet this year. We received a recommendation from the Chairman of Management Board with the results of the report of this committee, which recommendation was signed by the three members of the committee. When we received it, we got clarification of some of the details and we are in the process of carrying it out.

That was for certain of the fringe benefits with respect to the positions of the judges. The salaries, of course, came at an earlier date, on October 1—or was it April 1, 1981? These were the fringe benefits.

This is the flow that takes place. As they meet and come to conclusions and agreements, they give them to the Chairman of Management

Board, who transmits them to the Attorney General and we implement them.

Mr. Renwick: You are telling me I do not need to worry about it any more and that it is working well?

Mr. Dick: I would not say you should not worry about it; we all worry about it. But in the last two or three years, as I recollect, it has been working in that fashion and it is a continuous function.

Mr. Renwick: Will you try to answer my question on the pension. What is the problem about coming to grips with the pension issue in some process way so there would be some steps towards the goal of solving the provincial court judges' pension arrangements?

Mr. Dick: If I might make an observation just from my past experience with respect to it and with respect to pensions generally, it is well recognized that one of the problems with respect to the judiciary is that they often go to the bench at a later date, at a more mature age, and that is desirable. Our normal pension scheme is based upon years of service, which therefore requires long service, and that produces an inequity.

The remedy for that becomes a special provision, which requires a change in the act or a new act under which there would be a much shorter period of service required, and consequently a much higher contribution, presumably by the government, because the contribution by the incumbent or the employee could not be that large to cover a shorter term of service.

In that context, therefore, the question is how to relate that to other pension changes that may become appropriate as a result of the Haley report. It is at that stage. The judges did make a submission and it was dealt with in her report. As I understand it, none of the recommendations has yet been implemented or carried out. This is one of them. How it will relate depends on the cost.

Mr. Renwick: Could I just interject for a moment on that? My understanding is that the Haley commission on pensions recommended that the provincial court judges be dealt with separately. I understand that recommendation was accepted by the government and that it has been hived off, if that is the right term, from all of the rest of the lengthy program that will be involved in reviewing and reporting on and dealing with the Haley commission.

Is it possible to deal with that in isolation and get it straightened around? It has been knowledgeable for years that judges generally are appointed at a later stage in their careers and that the problem exists. That is what you state is the key to the problem.

Mr. Dick: I was not aware that the government had undertaken to deal with it separately.

Mr. Renwick: That is my understanding of it. I would appreciate it if you would find out and let me know if that is the case, and if that is the case, what can be done to process it.

I have no further comment on this item. I am quite prepared to have it pass.

Mr. Chairman: A vote takes place in the House at 5:50 p.m. If there are no further comments with regard to item 5—

Mr. Elston: I just want to raise the issue of interest on bail deposits because it was raised in the press earlier this year. Has there been any move made towards a new policy of gathering interest on those deposits? Perhaps the Attor-

ney General can give us a report on that some other time.

Hon. Mr. McMurtry: We could report to you tomorrow, if you like.

Mr. Elston: That is fine.

Mr. Renwick: Would it be possible, Mr. Chairman, before we recess to ask the minister if he would please respond at least on the McDonald commission problem and the Ku Klux Klan problem with respect to the attempted coup or putsch outside the province?

Mr. Chairman: You are speaking of tomorrow?

Mr. Renwick: When we meet tomorrow.

Hon. Mr. McMurtry: Yes.

Item 5 agreed to.

Vote 1406 agreed to.

Mr. Chairman: Thank you, gentlemen. Tomorrow after routine proceedings we will carry on with vote 1407.

The committee adjourned at 5:48 p.m.

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 Mitchell, R. C. (Carleton PC)
 Renwick, J. A. (Riverdale NDP)
 Treleaven, R. L.; Chairman (Oxford PC)
 Williams, J. (Oriole PC)

From the Ministry of the Attorney General:

Dick, A. R., Deputy Attorney General
 McLoughlin, B. W., Assistant Deputy Attorney General and Director of Courts Administration

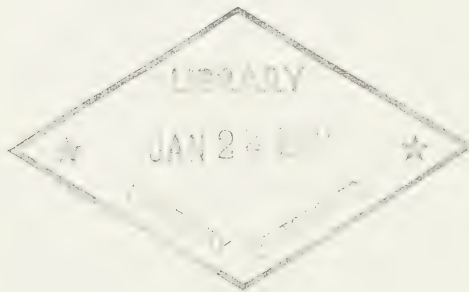


No. J-29

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of the Attorney General



First Session, Thirty-Second Parliament
Friday, December 11, 1981

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, December 11, 1981

The committee met at 11:50 a.m. in room No. 151.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (concluded)

Mr. Chairman: There being a quorum, I will call the committee to order.

On vote 1407, administrative tribunals program; item 1, assessment review court:

Mr. Chairman: Is there anyone who wishes to speak to item 1?

Mr. Renwick: I do not want to speak to any individual board at all, but I have the one request to make of the ministry. In 1972, the ministry put out this Manual of Practice on Administrative Law and Procedure in Ontario. David Mundell wrote it. I had forgotten there were so many Attorneys General in Ontario during that period of time.

It is an extremely valuable, concise book for anyone who has to deal with administrative tribunals. A lot of people who are not lawyers have to deal with administrative tribunals of one kind or another. I would urgently ask that the booklet be revised and reissued if that is considered a reasonable request.

Hon. Mr. McMurtry: I think it is a very good request. I know I have a copy of it which I have guarded very jealously because I learned it was out of print.

That is an excellent suggestion. The communications director, Mr. Allen, is here and I do not see any reason why we cannot follow up that suggestion. As part of it there may be some updating we can do as well.

Mr. Renwick: That is my only comment on the whole of this vote.

Hon. Mr. McMurtry: That is a very good suggestion. Thank you, Mr. Renwick.

Mr. Swart: If I may, I would like to get from the minister some of his views on the operation of the assessment review court. The particular application is the matter of the homes and perhaps some other buildings with urea formaldehyde foam insulation.

I presume the minister is aware the Ministry

of Revenue has refused to make any adjustments on its own on the matter of homes having urea formaldehyde foam insulation, although it is perfectly obvious in all kinds of evidence that this substantially reduces the value of the homes.

I am told by senior people that the assessors are going to make no comment when asked by the assessment court if the value should be reduced; when it is taken to the assessment review court, the assessors are going to make no comment. That is going to be their submission to the court.

Therefore, it seems to me a very difficult position with regard to the determination of value. Is the determination of the effect of urea formaldehyde foam insulation now going to be left with the court? If so, what investigative powers does the assessment court have and what machinery does it have to make these determinations, other than evidence which may be given to them by the home owners themselves?

I recognize they may get together and present some very substantive evidence, but if they do not—and this may come up in many places simultaneously—how is the court going to determine if it does not investigate? Should it not be required that the assessment branch of the Ministry of Revenue investigates and makes submissions?

I think I have made my point. I would like to have your comments on that, because I think your assessment court is being put in an impossible position, apart from what I feel is the opting out of the Ministry of Revenue in making these decisions.

Hon. Mr. McMurtry: I really think it is a matter you should take up with the Minister of Revenue (Mr. Ashe). As you know, I do not pretend to have any degree of expertise when it comes to assessment. I think this is an issue that has to be dealt with by the Ministry of Revenue.

I do not know what would preclude a home owner from adducing evidence in that area, if there is evidence to suggest the assessment value has been reduced by reason of these problems. I am not familiar with any procedure now that would preclude a home owner from introducing that type of evidence with respect to an assessment appeal.

I must admit I have not really thought about it before and it has not been brought to my attention before. I would like to think about it. But, as you can appreciate, it is primarily an issue for the Ministry of Revenue.

Mr. Breithaupt: In this instance, you just have the administration of the program.

Hon. Mr. McMurtry: That is correct, yes.

Mr. Breithaupt: The points that could be raised in discussing assessment are really a Revenue matter, are they not?

Hon. Mr. McMurtry: Absolutely.

Mr. Swart: I think though I am going a little further than that perhaps, Mr. Minister. The assessment review court, of course, has the obligation to make a fair decision.

If the Ministry of Revenue is not going to make any submission, is it possible for the assessment review court itself to require evidence to be given by the Ministry of Revenue or, in fact—

Hon. Mr. McMurtry: No, that is not the role of the court.

Mr. Swart: —appoint some experts to give evidence, to secure expert advice from some source? If this whole thing is going to be thrown into the lap of the assessment review court, can the court acquire expert evidence?

Hon. Mr. McMurtry: No. Under our procedures the evidence has to be adduced by people with standing in the proceedings. The court itself cannot of its own motion request evidence of any particular nature.

Mr. Swart: Then the Ministry of Revenue has the responsibility to assure that sufficient evidence is supplied to the court so there will be a fair decision.

Hon. Mr. McMurtry: Well, the home owner, the property owner—

Mr. Breithaupt: The home owner has the opportunity, but I do not think the ministry can force the provision of information, can it?

Mr. Swart: I think there is an obligation on the Ministry of Revenue under the act to assure that the result is a fair assessment. Therefore, it seems to me they have an obligation to go into this in some depth.

I am finished with my questioning of the minister because I accept what he says, that the assessment review court does not have the power to do the investigation and assure that all

sides are represented and complete evidence is presented. But it seems to me the Ministry of Revenue has the obligation to assure that.

Hon. Mr. McMurtry: I do not quarrel with that.

Mr. Swart: To date they have totally opted out; just the other night a strong statement was made that they intended to say, "No comment," when asked for their views on this matter. That is a serious situation.

Mr. Chairman: Mr. Swart is finished. Are there any further comments or questions regarding item 1?

Item 1 agreed to.

Mr. Chairman: Item 2?

Mr. Breithaupt: Mr. Chairman, before we turn to item 2, unfortunately yesterday afternoon I had to leave just a bit before six.

12 noon

I understand that questions were asked with respect to the matter of bail deposits and the interest thereon and that answers were going to be presented to the committee this morning. Would it be appropriate now to hear the comments before we move on to these other items and just clear up that outstanding matter?

Mr. Chairman: Yes, and I believe Mr. Renwick also had a question and the Attorney General said he would answer that this morning; I forget exactly what it was. Would you refresh the Attorney General's—

Hon. Mr. McMurtry: I recall the issue. The director of courts administration was here yesterday afternoon and I was under the impression he was going to respond to that question. He is not here this morning and I am just trying to ascertain from my senior colleagues in the ministry whether anyone can assist us as to what is happening. I am under the impression there were some initiatives taken.

Mr. Breithaupt: It may be that the information could be provided in the form of a letter to the members of the committee, or certainly to Mr. Renwick and to myself, who had an interest in this topic. What we would be interested in finding out is the program with respect to the interest rate, remembering that we looked into the same situation with respect to the public trustee and inquired into the placing of funds and how this matter was being adjusted.

I would presume that, where practicable, the same approach is being taken on the matter of bail deposits as with respect to other funds that may be in court for a period of time through the

operations of the public trustee. If that is the case, a brief note to that effect and the way you are keeping current as interest rates change would be a satisfactory answer. I do not want to bring someone back just for that point if the information can be readily provided in a letter.

Hon. Mr. McMurtry: I think our position has been that there is no responsibility or liability on the part of the crown to pay interest to the person who deposits the cash bail. But I think the issue we addressed was that obviously it would be in the interests of the administration of justice for at least the court system to benefit to some extent by any interest.

As I recall the issue when it arose, there was some concern that these amounts of money may not be drawing interest at all. I do not think we ever suggested we had an obligation or a liability to credit individual bail accounts with the amount of interest. That may be a position that would be advanced and we are quite prepared to discuss that general principle.

Mr. Breithaupt: I think there is another principle involved as well. You may not choose to credit the accounts, but at least it may be a matter of principle for the system of the administration of justice to receive the credit for the interest that is being accumulated, rather than simply allowing nothing to happen and forgoing some advantage.

Hon. Mr. McMurtry: Yes, I agree with that.

Mr. Breithaupt: You may not wish to take the second step, but I would certainly hope you would be prepared to take the first.

Hon. Mr. McMurtry: I agree with you. It was my understanding that some initiatives had been undertaken. We will inform the clerk, who will then circulate copies of our response to the members of the committee.

Mr. MacQuarrie: Mr. Chairman, before we leave the assessment review court, I have one question. In respect of membership in the court, are any orientation or training sessions given to the members?

Criticisms and complaints arise from time to time about decisions that are widely inconsistent and about some lack of appreciation on the part of members of the court of the problems that come before it. I am just wondering if the ministry has any sort of training program.

Hon. Mr. McMurtry: There are training programs; seminars for the members of the assessment review court. If you would like any details, perhaps Mr. Brad Gleason, who is director of common legal services, can provide that information.

Mr. Gleason: Yes, there are several training sessions every year and all members attend. I have attended them and they bring the members up to date on how to deal with the public, et cetera. They are ongoing. As new members arrive, they attend training sessions before they are assigned courts.

Mr. MacQuarrie: The complaints or criticisms I referred to were items that developed some years ago. I have not heard any recently.

Mr. Williams: I have a couple of quick questions. Just to put this into perspective, I noticed that in the past year there were 142 requests for the involvement of the board in trying to resolve expropriation matters. Of those, 132 were dealt with.

How does that relate in the overall picture? Is there a pattern developed over the years as to the number of expropriations the province finds it necessary to involve itself in? What percentage of those expropriations, on average, would pertain to the activities of the Board of Negotiation when I look at this figure of 142? What is the percentage factor here?

Hon. Mr. McMurtry: I do not know if we have this information available at the moment. The Board of Negotiation has proved itself to be a useful process.

Mr. Williams: I would think so, but I just wondered to what extent it has had to be relied upon in the overall picture.

Hon. Mr. McMurtry: I think they are relied on a great deal. I guess the question you are interested in is the rate of success.

Mr. Williams: That is another element of the question.

Mr. Dick: If I might just make an observation, Mr. Chairman, this board, as you know, is the most informal possible step in respect to this kind of problem. In that context, they are often almost an intermediary. They bring together the expropriating authority and their views with those of the property owner.

I have never seen statistics that indicate, for instance, how many of the matters that go to the board of arbitration go on to an ultimate determination before a tribunal. It is always felt they are sort of an intermediary without decision-making authority. They cannot even compel people to come and talk. They just invite them down, usually, to the person's home.

We have never really monitored it too much in that informal context, other than in the last four or five years the cases have run from 150 up to 200; that is the sort of load. They can be

handled very expeditiously within a few days after a request is made for them because there is no formality. An appointment is made and the person just goes out to see the person who wants to talk. So they have not been monitored the way the other boards have.

Mr. Gleason: I was just going to say that of the 140-odd, 24 did go on to the Land Compensation Board last year. There could be others that will go on in the future from that particular group, but until now there has definitely been 24.

Mr. Williams: Just one other question as a supplementary: are most of the expropriations related to highway expansion program matters such as acquiring rights of way for highways and so forth? Would that be the highest percentage of the expropriations we are involved in?

Mr. Gleason: Yes, definitely.

Mr. Williams: Do you have any breakdown in that area? Is it over 50 per cent of them, or 80 or 90 per cent of them? In what other areas would we be normally involved?

Would we be acquiring sites for government projects of a specific nature?

12:10 p.m.

Hon. Mr. McMurtry: Of the 142, 61 emanated from the Ministry of Transportation and Communications.

Mr. Williams: Of those that actually went before the board?

Hon. Mr. McMurtry: Yes.

Mr. Williams: That gives us some indication.

Mr. Gleason: MTC utilized the services very extensively.

Mr. Andrewes: My question is supplementary to Mr. Williams': has the Board of Negotiation ever been used as a forum for informal negotiation subjects other than expropriation matters?

Hon. Mr. McMurtry: Not to my knowledge.

Mr. Gleason: There was the one, Mr. Minister; Hydro and the cable television rights. They made a report and it is still pending, as far as I know.

Item 2 agreed to.

On item 3, Criminal Injuries Compensation Board:

Mr. Chairman: Gentlemen, before we start, I noted at one point we had four separate conversations going on in the room. All three political parties are equally guilty. Maybe you could keep it down a little bit.

Mr. Swart: I have a little concern about that. It means the Liberals are talking to one of the other two political parties.

Mr. Mitchell: We recognize your concern. I realize you have to rely on us sometimes for assistance, but please keep your discussions to a minimum.

Mr. Chairman: Is there anyone who wishes to speak to item 3?

Mr. Breithaupt: Yes, Mr. Chairman, if I may. I looked through the twelfth report of the Criminal Injuries Compensation Board with interest. As this board has been developing, it appears it is providing a useful service and indeed allowing for the persons who appear before it some redress of serious grievances that occur and for which there is no other practical result.

I was wondering if the Attorney General might just comment on the idea of some sort of a dovetailing approach for compensation of victims of violent crime with a compensation for nonviolent crime. Is there a relationship between the awards given for various injuries done in these criminal matters and the general scale of awards that would occur in the civil courts?

For example, we can use as an analogy an automobile accident, where insurance companies are involved in the civil situation. On the other hand, a claim resulting perhaps from a stolen car or a car without insurance, to stretch the analogy, might eventually come forward in some aspect to the Criminal Injuries Compensation Board.

Is there a relationship, perhaps, between the awards, so we are looking at a fairly consistent pattern of treating people in an appropriate way?

Hon. Mr. McMurtry: The awards that are given for matters such as general damages and what not are lower than what is usually obtained in a civil court.

Mr. Breithaupt: By a proportion?

Hon. Mr. McMurtry: I am not sure at the moment whether you could say there is a sort of percentage relationship. You will note in reading through their annual reports that the general damages would be higher. I do not have a copy of the legislation in front of me. I think it provides some specific guidelines in relation to the approach to be taken. It is a little different approach from what is adopted by our civil courts.

With respect to noncriminal injury, what you are really talking about is uninsured loss. We are really talking about a very costly system.

Mr. Breithaupt: Yes. I was trying to use that as an analogy in a sense. I recognize that in

appearing before the Criminal Injuries Compensation Board the legal costs and the length of time and the other aspects may be quite different—and I would hope much less—than they may be in the systems that go to the courts. As a result, I can see the awards are somewhat adjusted.

If you look through the pages—indeed, the report is basically a compilation of the summary of the decisions—it would provide some kind of a framework for the interested person to see what might likely result in a certain range. In an automobile accident or anything else, one would attempt to put some value, if that is possible, on the expected benefit or compensation that would occur.

I was just wondering if there was a kind of relationship. I recognize the point you have made with respect to the somewhat lower award for a variety of reasons. I would have hoped, of course, that some consistency would occur, together with recognition that court awards might increase. There is a certain requirement here.

I feel one of the benefits in this system is the fact you have serving on the board a variety of people who are also in active community involvement or law practice, or whatever. Therefore they have the opportunity of keeping somewhat current as to the circumstances in society.

I see the point you are making and I presume there is some relationship which does prevail.

Hon. Mr. McMurtry: There is consistency, so far as the board decisions are concerned. The board, of course, attempts to demonstrate that by publishing all their awards in their annual report.

Mr. Breithaupt: There is probably enough variety to also give that balance.

Hon. Mr. McMurtry: That is right. I cannot tell you at this point whether board members are interpreting the statutory guidelines, which are what they must be governed by as equivalent in the assessment of general damages—for pain and suffering as opposed to future economic loss—as representing a certain percentage of what might be awarded in a civil court. I know of no rule of thumb—and that is not to say some of the lawyer members of the board might not, at least in their own minds, have a rule of thumb. As you know, many of the members are nonlawyers.

Mr. Breithaupt: Thank you, Mr. Chairman. That was really the only theme I was interested

in having some discussion upon. I think as you look at the summary of decisions over the 1980-81 year, you will find well over 200 or so that do give a variety of approaches. I dare say that while the board is not entirely bound by a decisive kind of thing, it still would take all of that into consideration. But I was interested in the comments the Attorney General had to make on the theme.

Mr. Chairman: Thank you. Mr. Mitchell did express interest, but he is not here. Are there any other questions or comments with regard to item 3?

Mr. Breithaupt: There is just one point I might raise concerning the procedure of the board. The Attorney General may not perhaps be able to answer this immediately, but possibly he could obtain the information through the chairman or the administrator of the board.

I was interested in the approach taken with respect to cross-examination of witnesses and the general procedures. Am I correct in saying the procedure attempts a certain amount of informality to allow a person not represented by counsel to try to have the case dealt with easily, in the same way that often the Workmen's Compensation Board, or others, have attempted to have some informality?

12:20 p.m.

Hon. Mr. McMurtry: Oh, yes.

Mr. Breithaupt: If that is the case then, is there a pattern of cross-examination, an opportunity to do so, or an expectation that is allowed or, indeed, required of witnesses? How informal is the circumstance?

Hon. Mr. McMurtry: It depends. As you know, under the legislation, the person who causes the injury is responsible in law for the payment of any award. That is my recollection. So individuals do have an opportunity to appear before the board and challenge the amount that is being awarded.

I do not think this happens with a great degree of regularity. It is relatively rare that the people who are ultimately in law responsible for the judgement—I do not know how much money is actually collected from these people, quite frankly.

Mr. Dick: Very little.

Hon. Mr. McMurtry: I would suspect it is very little, but occasionally they will appear and may even appear by counsel. But the board operates, I am told, in quite an informal fashion. I have never actually sat in on a board hearing, but I

speak to board members fairly regularly and I am told that informality is generally the order of the day.

Mr. Dick: Could I observe, Mr. Chairman, that it is really not an adversary system at all? It is rare that there is anyone appearing in opposition and because of that it is really as informal as the applicant wants to make it, in the sense that the applicant just appears and has put in a written claim and so on.

The applicant can appear before the board without a lawyer, without counsel and so on and there is no other party putting forward an adverse position, except in the rare instance. When the person who committed the crime and who feels he or she might be responsible wanted to appear, that person would, of course, be permitted.

Mr. Breithaupt: That person is less likely to have assets that would be available in any event, so I dare say it would be very rare that it would be anything more than the development of the facts, based on perhaps a record of conviction for an offence when it would be useful for the board to see the background of the history of the event, along with medical evidence as to the result.

Mr. Chairman: Thank you. There being no further questions, shall item 3 carry?

Item 3 agreed to.

On item 4, Land Compensation Board:

Mr. Williams: Mr. Chairman, I have a couple of quick questions. Is there was any update with regard to the appointment of a chairman for the board since the untimely—

Hon. Mr. McMurtry: To the Land Compensation Board?

Mr. Williams: Yes.

Hon. Mr. McMurtry: No. The Land Compensation Board is being combined with the Ontario Municipal Board. I believe the orders in council making the appropriate appointments have been made. We will require legislation to formalize it in the spring. It was decided that, given the volume of the work done by the Land Compensation Board, it just simply made sense to combine it with the Ontario Municipal Board.

Mr. Williams: This will be done in the spring, do you say?

Hon. Mr. McMurtry: The members have received cross appointments as of now. The actual legislation will be introduced at the next session.

Mr. Williams: I see. With regard to the sitting members then, have all of them been given an opportunity to serve on the municipal board, is that what you are saying?

Hon. Mr. McMurtry: Yes. I have not been brought up to date, but so far as the part-time members of the Land Compensation Board are concerned, they were offered full-time jobs. I do not know whether all of the part-time members have accepted full-time appointments.

Mr. Gleason: The two boards are still operating as separate entities, but there are cross appointments and there has been amalgamation of the support services because that is where they dovetail and there are savings there.

Mr. Williams: It appears at least three of the board members are, I believe, of the legal profession. Can you quickly give a breakdown on the others, their particular talents and from whence they come? I notice Mr. Grant, Mr. Worrall and Mr. Campbell are members of the profession and maybe others are. I presume also we have people experienced in real estate appraisal; perhaps qualified appraisers or people of that nature are on the board, are they?

Mr. Gleason: Yes. Mr. Middleton has a background as a farm representative in the Ontario Federation of Agriculture, as I recall. Mr. Hobart was a businessman in London and both of them had been actively interested in this type of work prior to the formation of the board, as had Mr. Dobbs.

Mr. Williams: Where is Mr. Dobbs from? Is he from London as well?

Mr. Gleason: No, he is from Brampton, I think. Mr. Campbell came from eastern Ontario, that general area.

Mr. Williams: S. R. Cole, I know Mr. Cole.

Mr. Gleason: Cole is a lawyer. Mr. Grant has retired.

Mr. Williams: Then the authority vested in this board under the Expropriations Act is of an exclusive nature, is it, that such powers are not at present vested in the OMB but that appropriate complementary legislation would be enacted to give them those powers?

Hon. Mr. McMurtry: Yes, these are just cross appointments and obviously the boards are still functioning under their individual statutes at the present time.

Mr. Williams: Given the number of applications that are coming forward every year, is any consideration being given to, or is there a need

perceived that the number of members on the board would be increased to meet the volume of applications?

Mr. Gleason: With the cross appointments it has been increased by some 28.

Mr. Williams: So the other board members, you feel, would be qualified and capable of dealing with these issues along with the present complement?

Mr. Gleason: Yes.

Mr. Williams: I see.

Mr. Chairman: Are there any further questions and comments regarding item 4?

Item 4 agreed to.

Item 5 agreed to.

Vote 1407 agreed to.

Mr. Chairman: Those are the estimates. Shall the estimates be reported to the House?

Mr. Renwick: Mr. Chairman, I had specifically raised a number of matters in my opening remarks and I have asked the Attorney General if he would respond to two of them before this committee on the estimates recesses. One matter was with respect to the conspiracy alleged to involve members of the Ku Klux Klan and the overthrow of the government in the Caribbean; the second item was a full and complete response about the present position of the government in respect to wrongdoing in Ontario by the RCMP as disclosed by the McDonald commission report.

The Attorney General yesterday said he would be good enough to respond today on those matters. There is a half hour left and I would appreciate it if he could respond to those matters.

12:30 p.m.

Hon. Mr. McMurtry: That is correct, Mr. Chairman. Just before I do, Mr. Dick had some brief answers to two other issues that were raised.

Mr. Dick: Mr. Chairman, yesterday we were discussing the pensions of provincial judges and the status of those pensions before the government.

The government has not made any determination about the submission of the provincial judges. The association of the provincial judges is now preparing a brief to give to the Ontario Provincial Courts Committee. This is the committee on which Mr. Butler serves and of which Mr. Shepard is the chairman.

They will give that committee their brief. It

will then be considered and recommendations will then be made to the government. All that is going to take place in the new year and that is where the pension matter stands at the moment.

Mr. Breithaupt: I was wondering what effect the approach that has been taken with respect to the federally appointed judges might have on this submission. I presume those making it will be mindful of the suggestions that have been made and probably try to encourage that same approach here.

Mr. Dick: I am sure that everyone will be very familiar with those principles at the federal level as they consider this one.

Mr. Breithaupt: I dare say.

Mr. Dick: The second matter, if I might Mr. Chairman, is the matter of the interest on the bail.

I am now advised by Brian that all bail of a negotiable nature received is deposited in interest-bearing accounts. The interest is paid into the consolidated revenue fund. We do not keep a separate account of it. It is all included in the miscellaneous revenue account of the ministry and the total of that whole account is only \$700 in the last fiscal year.

So that is the process that is followed and it is not kept in individual accounts. It is just an interest-bearing account in each office.

Mr. Breithaupt: This is an interesting comment, because the article that I was referring to of April 30, 1981, in the Globe and Mail, commented, "The Ontario Attorney General's office has about \$1.4 million invested in banks across the province for which it gets nothing in return."

Did this decision to have these funds in interest-bearing accounts result from this kind of comment? Or has it in fact been the practice that interest is accumulated where possible for the general benefit of the system, even though that interest is not credited, for a variety of reasons, to the particular dollar amount that has been deposited by a person placing bail?

Mr. Dick: On the first part, Mr. Chairman, the practice as to whether they are interest-bearing accounts or not varies from office to office. When the question was raised and it was reviewed, it was then that the minister directed that all of the moneys be placed in interest-bearing accounts and that it be credited through in that fashion.

Mr. Breithaupt: Credited to the general revenue and not to a particular account?

Mr. Dick: Into miscellaneous revenue; and incidentally, that amount is \$700,000.

Mr. Breithaupt: Oh, that is a little different. You said \$700.

Mr. Dick: In the usual fashion with people dealing with large amounts I have discovered, you always have to look at the head of the column to see whether it is thousands, millions or billions.

Mr. Breithaupt: I am never very good with decimals. You were the Deputy Treasurer so I hope you are a little better at it than I am.

Mr. Dick: We only seem to deal with the billions. But it is \$700,000.

Mr. Breithaupt: That is a little different then, in regard to the comments that were raised in that article. Thank you.

Hon. Mr. McMurtry: I met with some of my senior advisers and counsel in the crown law office, criminal division, as recently as this morning to be brought up to date, to the extent that I could, on the questions that have been raised by Mr. Renwick.

With respect to the conspiracy to overthrow the government of Dominica involving a number of individuals, the media reported at least one of them to be a member of the Ku Klux Klan. I mention that because there are number of people involved in this who would allege they would have no connection. What we are talking about is what would appear to be a criminal conspiracy and I am advised that this matter is still very much under active investigation.

I think a little bit of confusion was caused by some reports that reached my attention in the summer from information the media had that the OPP had concluded their investigation and the report had been delivered to the Ministry of the Attorney General. That had not been the case.

A very brief synopsis of a preliminary investigation had been delivered to the ministry apparently seeking the advice of our senior law officers of the crown. As a result of this preliminary synopsis, senior law officers of the ministry were engaged in instructing the OPP as to the nature of the evidence that should be obtained with respect to possible infractions of the Criminal Code of Canada. There has been a great deal of activity, I am advised, since that time.

The evidentiary problems are complex, not as straightforward as some reports would indicate. I think many members of the public might quite properly assume that the matter was fairly open and shut, inasmuch as two or three people pleaded guilty and were sentenced to incarceration. The fact is the matter is somewhat complex in that others pleaded not guilty and were acquitted after trials in the United States.

I only mention that as an illustration to indicate that the matter is complex but certainly, as far as we are concerned, the full investigation is more than warranted and, quite frankly, we hope we will be in a position to proceed with criminal charges.

There have been some problems in communication with the appropriate authorities in the government of Dominica. I am not suggesting they have indicated they do not want to co-operate, but there have been those problems.

We are dealing with the fact that in order to secure a conviction for a Criminal Code offence in Canada it will require evidence to be adduced in Canadian courts that will have to be adduced, in part at least, from Dominica and elsewhere. Our crown law officers, with their usual degree of thoroughness, are spending a great deal of time in making sure that the investigation is proper and complete and we hope it will be completed in the relatively near future.

I am not suggesting they have needed any urging from me, because they have not. But it is an investigation I am particularly interested in, especially as the impression has been created in some of the black community in Metropolitan Toronto—I am thinking in particular of some of the minority communities—that we are sitting on a lot of evidence that clearly is sufficient to proceed with and that we are just kind of dragging our feet on it.

That perception has caused me a great deal of concern, because I realize the sensitivity of the issue, but I am satisfied that the crown law officers and the OPP are doing everything they can to expedite the conclusion of the investigation, which should be completed in the relatively near future. That is generally the information I have.

12:40 p.m.

Mr. Renwick: I just have two questions about that. Will you agree to make a full statement to the assembly when this investigation is complete and a decision is made about this matter? Secondly, is the strange role of the particular broadcast media part of that investigation you are undertaking?

Hon. Mr. McMurtry: The answer to first question would be that if there are criminal charges laid, of course, my statement will be obviously made with that in mind; I would not make a statement that would in any way create the impression that prosecution might be prejudiced.

Mr. Renwick: No, I understand that.

Hon. Mr. McMurtry: With respect to the role of the particular radio station, from an evidentiary standpoint I would assume that any information they had would be of interest to the investigating officers. I certainly take that for granted.

By that, I am not in a position to say anyone is contemplating charges against any individuals associated with that radio station. I know it has been suggested; I have been questioned by some of the media as to whether these people might be guilty of some breach of the Criminal Code by not turning this information over sooner, for example.

I do not know the details of that and I have to be totally frank in saying my inquiries have not been related to whether or not any charge is being contemplated against this particular news outlet. I have no reason to believe that is the case, but on the other hand I do not know.

Mr. Breithaupt: But there would be if it turned out—

Hon. Mr. McMurtry: Oh, yes. If there is any evidence, obviously that would be considered. My concern has been related, in my own mind, to the individuals who have been so prominently identified in the press as being involved in this conspiracy directly.

Mr. Renwick: I understand. I just felt that ancillary matter has to be dealt with as well, not only with respect to whether the behaviour or conduct was criminal, but also with respect to the responsibility of a radio station in such circumstances. It did seem to me—and I think to many other members of the public—what was taking place with respect to the role of that radio station was passing strange.

Hon. Mr. McMurtry: Yes, I realize there is a great deal of interest in that matter and, certainly from an evidentiary standpoint, they were privy to certain information which might well be relevant to any criminal prosecution against others, so that will be fully canvassed.

Mr. Renwick: Could we move to the McDonald commission question, sir?

Mr. Piché: I wonder if I could ask a question of the chair here before we move on. Mr. Chairman, you will recall earlier I had indicated to you there were some questions I wanted to ask. This has to do with court facilities throughout the province. The question I have has to do with the facilities in Timmins, but I was not here yesterday, unfortunately, because of other duties. Am I in order to go ahead with this now and ask some questions?

Mr. Chairman: No.

Mr. Piché: I know we have dealt with it, but I just thought that I could take maybe five minutes and ask some of these questions of the minister.

Mr. Breithaupt: Mr. Chairman, when Mr. Renwick's question is dealt with and if there is still a bit of time—

Mr. Renwick: I do not have any objections either, but I am very anxious to get this matter dealt with.

Mr. Chairman: Mr. Renwick, he did reserve that and perhaps there could be five minutes left at the very end to—

Mr. Breithaupt: If there is, I am certainly content to go ahead with that and—

Mr. Chairman: Let Mr. Piché ask his questions. Thank you.

Hon. Mr. McMurtry: With respect to the McDonald commission and Operation Checkmate, there are a number of matters still under investigation, but the matter Mr. Renwick is particularly interested in is the Dowson and Riddell matter.

Our law officers have reviewed the McDonald commission report and any additional information provided by the McDonald commission and are of the view that they have no additional information that would in any way influence the earlier decision to stay the proceedings. As you know, on that matter the Court of Appeal decision has been appealed to the Supreme Court of Canada.

Mr. Renwick: Mr. Copeland advised me of that.

Hon. Mr. McMurtry: I gather leave was sought, just within the last week, and the Supreme Court of Canada have reserved their decision. But in so far as that matter is concerned, there is no additional information that would warrant the crown law officers proceeding with their prosecution. There are other matters that are still under investigation.

Mr. Renwick: What I want to get is some sense of the scope of the number of occurrences now under active investigation through you, sir, as a result of the McDonald commission report.

Secondly, what is the extent and degree of the investigation and to what extent are you getting the kind of co-operation that you should expect from your colleagues in Ottawa with respect to the allegation of offences in Ontario, of which there was obviously evidence of a significant number? Or are you in a position where the

evidence is just not available to you because of the destruction or otherwise of documents, as indicated in that report?

The other matter about which I am very deeply concerned and which, of course, our former colleague, Margaret Campbell, was very much concerned about, is the Praxis matter. What is the position with respect to that matter?

If I recall properly, when you stayed the proceedings in that matter, I do not recall ever seeing what the reasons were for it, whereas in the Dowson and Riddell matter very substantial reasons were given.

Hon. Mr. McMurtry: So far as the Praxis matter is concerned, as I recall the investigation had been completed and I thought the Assistant Deputy Attorney General, Mr. Rod McLeod, director of the criminal law branch, could address that matter.

Mr. Renwick: I would appreciate it.

Mr. Breithaupt: There were a number of questions. If Mr. McLeod is going to get involved, it might be more practical for Mr. Renwick to repeat them individually.

Mr. Renwick: Mr. McLeod heard them, I think.

Mr. McLeod: I shall try to remember them.

With respect to the last one, Mr. Renwick, when the stay was entered with respect to that matter in January, there was no separate, independent, lengthy statement, the way there was with respect to the Dowson and Riddell matter. During the minister's statement in the Legislature at the time, the previous spring, the fact that the police investigation revealed no basis for charge was read in. I think the minister's statement was made in the Legislature on May 28, 1980, and when the matter was stayed in January 1981 that statement was read by me, as the crown appearing, as part of the explanation as to why we were staying the proceedings, because it was a report of the OPP investigation.

Mr. Renwick: From that date till now, the correspondence you have had on this matter which I have seen has indicated that when that commission reported you would again review all of the information which was then available which was not previously available. I think that is a correct statement.

Mr. McLeod: I think there are two outstanding matters at the moment. First of all, Mr. Copeland, who I see is here today, wrote to us in October, making certain suggestions with respect to the reopening or continuing of the investiga-

tion. His answer from us will be forthcoming when the leave-application result in the Supreme Court of Canada is known.

With respect to the McDonald commission, however, we take some issue with their conclusion in what is styled as detailed summary number 28, in volume three of the McDonald report, at page 323.

12:50 p.m.

Mr. Renwick: What do you take issue with in that?

Mr. McLeod: Paragraphs one, two and three refer to the fact of the initial Metropolitan Toronto police investigation and the subsequent Ontario Provincial Police and Ontario Police Commission investigation. Then, in paragraph four, they say, "Although our investigation has not revealed any facts not already brought to the attention of the Attorney General concerned, the one legal issue not really previously examined in depth arises from the retention of the documents by the RCMP."

Paragraph five follows with: "We have looked at the provisions of section 312 of the Criminal Code concerning the unlawful possession of property obtained by crime. It might be argued that this section was violated by members of the RCMP in this case when they retained the stolen documents for nearly seven years. We take no position in attempting to determine this issue, but recommend that the matter be referred to the Attorney General of the province in question for consideration of this issue."

The problem we have, sir, is that the statement delivered by the Attorney General to the Legislature in May 1980 made it clear that the OPP investigation had examined not just the possibility of theft, break, enter and theft or arson at the time of the removal of the documents, but had in fact concentrated, I think it is fair to say, even more significantly on the possible application of section 312 vis-à-vis the RCMP. The conclusion made at that time was that there was no evidence to justify proceeding under that section. So we really are in a position where we do not quite know how the McDonald commission could have come to the conclusion that it did in suggesting that issue had not been examined in the original police investigation.

Mr. Renwick: What is your intention with respect to the Praxis matter? Are you saying, throughout all of that, that the OPP investigation is not going to be reopened, that there is no further information or evidence of any kind and you are not going to pursue the matter, or what?

Mr. McLeod: At this stage all I can say is that Mr. Copeland's letter of October, as I said, will be answered by us after the Supreme Court of Canada decision. We have to be a little careful in this forum because that matter is still before the court. As of this date, to my knowledge there is no evidence to warrant our coming to the conclusion that we should invite the OPP to reopen the investigation.

Mr. Renwick: I recognize that the Supreme Court has reserved its decision on it, but I have great difficulty in understanding why you would not allow the matter to proceed on information by a private citizen.

Mr. McLeod: I think one has to go to the detailed statement given by the minister in May 1980, where the reasons are set out. Secondly, as a crown law officer having advised the police in the course of that investigation, I am in the position where, even in this forum, I cannot discuss in detail all of the things that were reported to me by the police as being matters uncovered in their investigation.

Mr. Renwick: All right. Since we only have a short time, how many occurrences in Ontario are subject to investigation with respect to Operation Checkmate?

Mr. McLeod: Nine items were referred to the Attorney General of Ontario, one of which is the Dowson and Riddell matter. Of the nine—and I have to apologize for not being as precise as I ought to be—my recollection, without having refreshed it this morning or within the last couple of days, is that two or three of those nine, perhaps as many as four, in our view of the information provided by McDonald, where there was no basis for requiring the police to investigate further, because even if everything alleged were to have been proved, there simply was no possible criminal charge that could apply to the fact the situation suggested.

The other remaining matters, as the minister has already indicated, are under investigation. One of them has been, in effect, referred back to the federal government because it is a matter which involves a possible breach of a federal statute under the Criminal Code which if substantiated would result in a prosecution by the federal Department of Justice rather than by Ontario.

Mr. Renwick: Surely you have the option of proceeding yourself.

Mr. McLeod: No. Subject to perhaps a complex and detailed discussion with respect to the decisions of the Supreme Court of Canada

in Hauser and Aziz, and in cases like that relating to prosecutorial responsibility, the precise charge in question would be under the Income Tax Act and I think it is pretty well established in this province that it is the federal government that prosecutes all breaches of the Income Tax Act, not Ontario.

Mr. Renwick: Are you satisfied that those nine instances were the only ones that required investigation here in Ontario?

Mr. McLeod: Your question, sir, I think was with respect to Operation Checkmate. There was one other investigation which the OPP conducted. It was a very extensive investigation arising out of a separate reference from the McDonald commission by way of a special separate report they sent to us prior to the release of the main McDonald commission report. It involved an allegation of a participation by an RCMP officer in an alleged offence of conspiracy to commit murder.

That matter was investigated at great length and it was reported back to the Solicitor General of Canada that the investigation disclosed no evidence whatsoever to justify that allegation. The investigation disclosed that an informant of the RCMP alleged that an RCMP officer had been attempting to counsel, or suggest to him, that he should participate in that activity. The investigation, if you could say it disclosed any evidence at all pointing to impropriety or illegality, indicated it was the other way around—that an informant of the RCMP had been involved in attempting to suggest that type of activity should take place.

Mr. Renwick: I have one last question, which is dear to my heart, which was a matter of correspondence in 1977 by you, sir, with the Attorney General here, with both the then Solicitor General, Francis Fox, and the then Minister of Justice, Ronald Basford, about members of the New Democratic Party in Ontario.

You received totally noncommunicative response from the Solicitor General of Canada in connection with that matter. As far as I know, it was first disclosed in August 1977. What information do you have about any member of the New Democratic Party in Ontario being subject to any investigation by the Royal Canadian Mounted Police?

Hon. Mr. McMurtry: I do not recall, at the moment, having any information one way or the

other. I do recall this matter being raised in the Legislature and expressing my concern at that time.

Mr. Renwick: Stephen Lewis raised it, you will recall.

Hon. Mr. McMurtry: I do have a very good recollection of that and I recall correspondence. I thought there was some answer given in the Legislature subsequent to that.

Mr. Renwick: I do not have any note of it and I do not want to cause any delay now, but would you please, in the light of the issuance of the McDonald commission report and the total amount of information that you have been able to get from that, let me know in some way what the extent and degree of that investigation was so I can make some assessment about whether or not the RCMP were doing it off the top of their heads when they were conducting such activities?

1 p.m.

Hon. Mr. McMurtry: We will check to see what we have. Mr. McLeod's recollection is that we got a response which indicated that no member of the NDP had been the subject matter of an investigation qua their membership in the NDP. I do not imagine any police force could say a member of the NDP, of the Conservative Party or of the Liberal Party had not been investigated for some unrelated activity.

Mr. Renwick: I understand that, but this relates to the activities of a political party.

Hon. Mr. McMurtry: Yes, I appreciate that. We will just bring ourselves up to date on that and get back to you.

Mr. Renwick: Then you will recall, sir, that long and acrimonious exchange of correspondence that you had with Jean Chretien in October 1980, which left unanswered a large number of questions. I have not been able to get it.

Hon. Mr. McMurtry: We also had correspondence with Jean-Jacques Blais, who has never responded. We still have great difficulty in making the federal Solicitor General, in particular, understand the role of the provincial Attorney General. He still has a very strange perception of what our constitutional responsibility is. I have to be very frank with my colleagues in suggesting that this debate will undoubtedly be ongoing for a long time because, to put it in its most charitable terms, he is confused on the issue.

Mr. Renwick: The nutshell result for me is I do not have, in this maze of destruction of documents, the report of the McDonald commission, the problems you have with your federal counterparts and all of the background of it, any handle whatsoever on the degree and extent to which the RCMP were conducting illegal activities in Ontario. I have no sense that there has been any statement of the extent and degree of their activities over such a long period of time.

When you look at the whole McDonald commission and all of the files they have accumulated over a period of time, it seems passing strange that we are only talking about a dozen incidents. Out of all the irrational activities of the RCMP during that period of time, it all boils down to only about a dozen; and then of the dozen, maybe three, four or five. It seems strange to me that, somehow or other, out of all those activities, there has been only that small degree of activity by the RCMP in this province.

I say that because long before I knew any of these details back in the 1960s, I was always concerned about what the RCMP were doing in Ontario in addition to their work in criminal matters. I raised with your predecessors that that relationship had to be rationalized and I still feel the relationship with the RCMP and what its legitimate activities are in Ontario are should be straightened out.

I have never been satisfied with the role of the RCMP in relation to our own police forces here, particularly in the light of the McDonald report. It leaves me with an extreme sense of disquiet and a total sense of not having any handle on it. I do not pretend I have studied everything that comes out, but you were good enough to send on the very first report and I have read the other reports as they came out as well.

I do not want to intrude on Mr. Piché's time; I will be happy to stay when he asks his questions. But I want to reiterate my sense of uneasiness about the whole of the matter and I guess that means that I have some concern as to whether or not your ministry, sir, is playing kind of a passive role. If you get something, you will then investigate it, but if you do not get it, you are not really involved in it.

I say this very advisedly and I am not trying to be offensive. But, somehow or other, while your sense of outrage is shown here, the sense of outrage does not seem to me to be communicating through to a thorough investigation, independently, on the basis of whatever has

happened—particularly, of course, the destruction of all of those documents, which seems to me to be terrible fortuitous.

Hon. Mr. McMurtry: Our role has been anything but passive. We have had the dialogue, as you have properly described it; there have been some very acrimonious exchanges with our federal counterparts. The Ontario Provincial Police and the Metro police have been actively engaged in a number of investigations during the period of time that I have been the Attorney General of this province.

Our role has been that of an activist. The role of the Ministry of the Attorney General has been that of a ministry that recognizes totally the accountability to the people of this province for overall accountability in relation to the administration of justice and law enforcement. There is no question in my mind about that.

It may be that some of the citizens are frustrated because they do not see a number of prosecutions. But, again, we are not treating the RCMP any differently from any other citizens. We are not going to prosecute the RCMP if we do not think that we have reasonable and probable grounds simply to satisfy our critics. We will approach these prosecutions on the same basis we approach any prosecution against any citizen, without fear or favour.

I can tell you, Mr. Renwick and members of this committee, that having served more than six years in my present office, the people of Ontario are bloody well fortunate to be served by law officers of the crown who have the capacity, integrity and dedication to their work that ours have. I think perhaps that is an appropriate note on which to terminate the estimates this year, but Mr. Piché has the floor.

Mr. Chairman: Mr. Piché, would you please—

Mr. Piché: Mr. Chairman, I quite realize we have run out of time and the items I wanted to discuss with the ministry I will maybe have to get to on another occasion. But the minister is well aware of the concern I have about the existing court facilities in Cochrane and the second location in the city of Timmins.

If I go back to the statement from the minister—and I will be very brief—he told us that, “The present level of funding of the justice system is not adequate, but in these times of restraint there are severe limitations on the resources available to governments”—and so on. Then I go to page 10 where there are references to new facilities being developed in the province, the new construction which is

under way in different parts of the province. Also of great concern and interest to me, of course, are the 15 other projects which are in the design stage and which include Timmins.

As the minister is aware from the discussions we have had in the last two years, we have facilities in Cochrane that are not being utilized to their full potential. During the last two years an awful lot of pressure has been put on your ministry about getting a second facility in Timmins. After looking into it I do not think there is any justification for the costs involved. Your ministry should take a second look at that.

1:10 p.m.

I would like to read a very short editorial in the Timmins Daily Press, a Thomson paper. The first paragraph goes like this: “All that was done does not matter, but whatever means that were used to end an old judicial problem for Timmins certainly were effective.”

This paragraph says a lot, because an awful lot of pressure from the legal profession of Timmins—including, as I told you before, some secret meetings with your ministry, with no one else knowing—to open facilities for which there is no justification. This is of some concern to me.

As an example, last week there were two court sittings, both in Timmins. The Cochrane courthouse was empty. Right now the facilities you have in Timmins are already too small. You only opened them last June, but they are already too small and now you are negotiating for extra space. There is to be this cost, just because someone does not want to travel a few miles to go to court—which is the legal profession in this case.

I do not think that is fair to the people of Cochrane. Cochrane is 60 miles away from Timmins and Cochrane is in the middle of the whole district, as far as court sittings are concerned. It is going to cost you an awful lot of money to satisfy a few people and I do not think there is any justification for it. Right now the facilities we have in Cochrane are adequate and I feel your ministry should take another look at that proposal.

I know I had your assurance at the last meeting we had that you have frozen this until you and I can have a discussion.

Hon. Mr. McMurtry: Frozen?

Mr. Piché: Not to proceed with this project.

Hon. Mr. McMurtry: I am not sure just at what stage the project is. I would be happy to discuss it with you, Mr. Piché.

As you know, the administration responsibility for the scheduling of sittings is really not the function of the Ministry of the Attorney General. It is the function of the senior judiciary in this province. While we have indicated to the senior judiciary of this province our determination to maintain Cochrane as the judicial seat and to continue to make sure that these sittings are scheduled in Cochrane, at the same time we recognize, as do the Chief Justices of the province, that the needs of the litigants in Timmins—we are not just talking about lawyers, we are talking about many litigants—does require the scheduling of cases, both civil and criminal, jury and nonjury, in Timmins.

As you know, there is great pressure on the ministry to separate this area, the district of Cochrane, into two judicial districts. We have resisted that pressure because we felt that, given the interest of all the citizens, we were not prepared to see the stature of Cochrane diminished by splitting up the whole district.

It has always been our understanding that there would be some sittings scheduled for Timmins, given the population of the Timmins area. I think you can appreciate that for the Attorney General or the Chief Justice of the High Court to say to the people of the province—well, we do not want to get into that kind of a dispute because we do not schedule the judges or we do not tell the judges where they sit.

Mr. Breithaupt: But you do provide the places for them.

Hon. Mr. McMurtry: We do provide the places.

Mr. Piché: Obviously I want to discuss this further with you somewhere.

Just in closing, the judge who was appointed to Cochrane did not want to live in Cochrane, he wanted to live in Timmins. So what they are doing—and it is wrong—is moving all the facilities to Timmins so he does not have to go to Cochrane.

He has to travel to Cochrane to attend court, say half the year. I think the spring sittings are held in Cochrane and the fall sittings will be held in Timmins. That means one building is empty half of the year, which is not utilizing the court facilities as they should be utilized.

I intend to bring all this to your attention because I have a lot of information coming in to prove there was no justification. Perhaps somewhere along in your ministry, someone did not give you all the facts.

I would like to know if the judge gets mileage when he leaves Timmins to go to Cochrane, when he should be living there. At one time the appointed judge was living in Cochrane. There was no problem. You had beautiful facilities, a beautiful under-utilized building in Cochrane as well as the money you are going to spend in Timmins. I do not think this is right. This is what I would like to bring to your attention and have some further discussion on.

Mr. Chairman: Mr. Minister, with respect, may I cut off the—you and Mr. Piché get your boxing gloves going.

Mr. Piché: No, we are together on this matter.

Mr. Chairman: For the committee, before we—

Hon. Mr. McMurtry: I would like to thank all members of the committee before we conclude, Mr. Chairman.

I would like to say this for the record. I found, once again, this has been a very useful discussion as far as the ministry is concerned. I think we gain a number of insights by reason of the participation of our colleagues in the justice committee. I would like to thank all the members of the committee for making such an important contribution to the administration of justice and to the activities of the ministry.

Mr. Renwick: You could say they are a little too gentlemanly.

Mr. Chairman: Thank you. Shall I report the estimates to the House? Agreed.

Now, we have had Bill 178 referred to us by slightly more than 20 members. That is scheduled to us. It is my understanding, although it has not yet been read in the House, that we will have Bill 6 and Bill 125 the first two weeks in January; our first choice.

Now, when do we want to deal with Bill 178? Mr. Elston estimates four days. Shall we schedule a week? If so, when? What is the committee's wish to try for?

Mr. Renwick: My position is quite clear. I would like to see that bill passed and enacted before the end of this session.

Mr. Chairman: Of course that is not going to be, Mr. Renwick.

Mr. Renwick: It is not possible, you are saying?

Mr. Chairman: I do not think there is any consideration for putting it before the end of this session, is there?

Mr. Renwick: I do not know.

Mr. Chairman: No, I believe it is impossible. We have Correctional Services on Wednesday. I believe that is out of the question, regardless of what one would wish.

Question one is when? Secondly, Mr. Elston has suggested to the clerk a number of people or organizations he would like to see appear.

Mr. Breithaupt: I would suggest you try for the last week of January or the first week of February if you want a separate week because it may be, from the comments Mr. Williams has made, that other committees are planning to sit in the latter portion of January. This may have to be sorted out. We may not get the preference.

Mr. Renwick: My concern to that is our leadership convention is the first week in February. I would like to be able to attend these hearings. I will not be able to attend them if they are in the last week in January and the first week in February.

Mr. Chairman: Excuse me. The Attorney General has asked me why it will not be dealt with next week, which is following up Mr. Renwick's suggestion. This would be presumably between the House leaders to schedule it. We do have the Correctional Services estimates, which was my third matter; we are meeting here at nine o'clock next Wednesday morning and finishing those estimates that day.

Mr. Breithaupt: Surely, Mr. Chairman, those five hours scheduled for Correctional Services could be attended to on Wednesday.

Now I do not know what the House leaders have decided, but it may be necessary for you to meet with them to see if, in their view, the bill could be accommodated on Thursday and Friday before we adjourn. I do not know whether it can be or what their plans are.

1:20 p.m.

Mr. Renwick: If we met in the House in the last week, I do not see any particular reason why it would not perhaps be possible to schedule one session perhaps on Monday and one session some time on Tuesday. That would give us Monday and Tuesday and presumably Thursday. We could be finished on Thursday. I cannot concede the bill is going to take all that long.

Mr. Chairman: You are running right up until Christmas Eve?

Mr. Renwick: No, no, next week. In other words, our committee normally does not sit on Mondays or Tuesdays. In the circumstances, I would think with the agreement of the House

leaders and of the House, we could sit for one session on Monday, one session on Tuesday, have the Correctional Services estimates done on Wednesday, sit another session on Thursday and try to finish in three days rather than four days.

Mr. Chairman: We are going to have some difficulty. It cannot be announced in the House now until at least Monday afternoon, can it?

Mr. Renwick: Well, it could be announced and we could perhaps sit Monday evening.

Mr. Chairman: Is your choice then basically to try to get it on next week? Is that the committee's choice? And failing that—

Mr. Breithaupt: I do not know whether we can say it is our choice. I think all you could do at this point, Mr. Chairman, would be to approach the House leaders of the three parties to find out whether they have considered this option.

I must say, sitting here, I do not know whether they have or not. It may be they are able to—

Mr. Chairman: I would think that has probably not been discussed, but I must go by what the committee wants to do. Do you want, as your first choice, to attempt to get the matter finished prior to the session ending?

Mr. Renwick: My first and only choice is that.

Mr. Chairman: That is what I am asking for. Mr. Renwick feels strongly on that. Is that the consensus?

Mr. Renwick: If you are talking to our House leader before I talk to him, you can tell him I have indicated we will co-operate on Monday or Tuesday and Thursday to get the bill through.

Mr. Williams: It seems to me the only additional time we could probably strive to obtain is Tuesday afternoon.

Mr. Renwick: Monday evening perhaps.

Mr. Williams: Is the House sitting in the evening?

Mr. Chairman: No, but it would sit Monday afternoon.

Fine, then that is first choice. I am going to take it, in the absence of someone screaming, that is the first choice. The second choice would be say the last week in January?

Mr. Renwick: No, I would not be able to participate the last week in January and the first week in February, because I have party obligations. It would have to be after the fifteenth.

Mr. Chairman: As Mr. Renwick says we have a first choice and no second choice. Consensus? Fine.

Mr. Piché: We have run out of time to do otherwise.

The committee adjourned at 1:22 p.m.

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From the Ministry of the Attorney General:

Dick, A. R., Deputy Attorney General
 Gleason, J. B., Director, Common Legal Services Branch
 McLeod, R. M., Assistant Deputy Attorney General and Director of Criminal Law



No. J-30

Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice
Estimates, Ministry of Correctional Services



First Session, Thirty-Second Parliament
Wednesday, December 16, 1981
Morning Sitting

Speaker: Honourable John M. Turner
Clerk: Roderick Lewis, QC

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Contents of the proceedings reported in this issue of Hansard appears at the back, together with an alphabetical list of the speakers taking part.

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, December 16, 1981

The committee met at 9:22 a.m. in room No. 151.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

Mr. Chairman: Gentlemen, Mr. Elston was here and has just stepped out of the room for a moment, and since Mr. Spensieri will be substituting, we therefore have a quorum. We are commencing the estimates of the Ministry of Correctional Services. I think all of you have your schedule in front of you. The minister is with us and perhaps he would give us his opening statement.

On vote 1601, ministry administration program:

Hon. Mr. Leluk: Thank you very much, Mr. Chairman and honourable members of the committee. With your permission, I would like to make an opening statement concerning the management of my ministry before we proceed with the debate on the various votes in our estimates.

Before proceeding further, I would like to introduce my deputy minister, Mr. Archie Campbell, who was appointed to this ministry in September. At the time of Mr. Campbell's appointment to this ministry, he was Assistant Deputy Attorney General for policy development. He brings with him a wealth of experience in the justice field and I might add that he has already made a significant impact on the ministry.

I would like also at this time to pay tribute to Mr. Campbell's predecessor, Mr. Glenn R. Thompson. Mr. Thompson was appointed Deputy Minister of Energy in September following a 20-year career with the ministry, the last six and a half years of which were as deputy minister.

All of us will recognize the enormous contribution Mr. Thompson has made to the innovative programming of the ministry and many of the items upon which I will touch in this address can be attributed in a very large part to his leadership in the administration of the ministry. I am sure that all of us wish him every success in his new post.

In line with the practice of the past several years, the ministry's briefing material for 1981-82 estimates, the red book, has been distributed to

the members of this committee. The ministry's annual report for the year ended March 31, 1980, which was distributed to all members of the Legislature last year, provides a detailed summary of each of the programs which are to be reviewed in this debate.

You will see from the printed estimates that the total amount to be voted this year is \$129,755,800, which represents a total ministry expenditure of \$162,659,200 less the special warrant for the first quarter expenditures and the statutory appropriation. In addition, there are supplementary estimates in vote 1602, item 2, of \$4 million.

As you know, this is my first opportunity to present the estimates for this ministry, having been appointed in April of this year.

What I will be doing today, basically, is sharing with you what I have found in this challenging field of corrections. As you may know, I have had a lifetime interest in related areas. I have devoted a large part of my own career to the interesting challenges presented by the effects of alcohol and drug abuse upon the individual. This has given me a useful insight into the field where many criminal offences are committed by persons with these kinds of problems.

The mission of my ministry is presented in the goal statement shown at the front of the annual report. As you can see, the theme of responsibility is emphasized throughout the ministry. The concept stresses offender responsibility, community responsibility and, lastly, the responsibility of the organization. This ministry has provided leadership and direction in Ontario's corrections for many years and continues to be a responsible organization responding to the needs of the people of this province.

I will touch first on the institutional system, which consists of 48 institutions and three work camps ranging from maximum security classification through minimum security.

A number of minimum security institutions and units have been closed in recent years, and a significant number of non-dangerous offenders who require low levels of physical security have been absorbed into the community at large, under professional supervision.

This has left the ministry's institutions with a more difficult population than in earlier times, a population which in some cases presents real challenges in terms of control and rehabilitation.

Combined with this increasingly difficult population has been a steady increase in the number of persons incarcerated. As a result of this, the three Metropolitan Toronto facilities, for instance, have been operating in excess of standard capacity for most days in the past two years. Other jails and detention centres, especially in the larger urban centres of southern Ontario, have experienced similar difficulties and in peak periods as many as 32 institutions were housing inmates well in excess of the capacity for which they were originally designed.

This situation has been commented on from time to time in the media and I have, you will recall, responded to questions on this subject in the House. My ministry is taking whatever steps it can in addressing these cyclical crowding problems. We are intensifying our thrust towards the placement of nondangerous offenders in the community by providing alternatives to incarceration and by providing various forms of early release programming. The supplementary estimates of \$4 million are being applied totally to staffing in institutions to alleviate this situation.

I would point out that it remains the policy of my ministry, wherever possible, not to overcrowd the longer-stay correctional centres and the serious capacity problems are confined largely to our maximum security jails and detention centres.

Within our institutions, particularly in the longer-stay correctional centres, one major emphasis is on work and the responsibility of the individual. This underlying theme applies to all institutional activities and programs and is an integral part of the prerelease planning with our inmates.

Our work programs include the manufacture of licence plates, picnic tables and numerous hardware, furniture and clothing items. We are in the second year of a five-year plan to become more self-reliant in terms of farm and market gardening products. Inmates are extensively employed in these activities and we have made considerable progress in the production of vegetables, eggs and meat. Indeed, during the past growing season, we produced and used more than 1,000 tons of vegetables, over half a million eggs and 55,000 pounds of meat and

poultry products. This production had a wholesale value of \$460,000 and represents a saving to the taxpayer of over \$100,000.

9:30 a.m.

In some of our facilities, inmates who have displayed suitable attitudes to institutional work programs are engaged in work provided by the private sector. This includes meat packing at the Guelph Correctional Centre as well as automobile parts manufacture at the Maplehurst Correctional Centre in Milton. At Mimico, inmates produce fire-resistant mattresses which are used in both federal and provincial correctional systems and in other institutions operated by the Ontario government.

Industries of this kind provide inmates with an opportunity to earn wages often comparable to those in the private sector. In return, inmates contribute to their room and board in the institution, pay their fair share of the tax burden and contribute to the living expenses of their families. Various temporary absence and parole programs enable other inmates to work and in some cases to live in the community.

In addition to the more traditional forms of work in our institutions, the ministry contributes over one half million man-hours of work each year to community projects which would otherwise be left undone through lack of funds.

At Milton, inmates of the Maplehurst Correctional Centre provide a brush clearing service in co-operation with the Ministry of Natural Resources. Inmates from many other institutions work on local cleanup programs and snow shovelling and provide help in many forms to volunteer agencies.

The inmates at the Rideau Correctional Centre are involved as volunteers in the care of patients at the Rockville Psychiatric Hospital and in programs for residents of Rideau Regional Centre at Smiths Falls. Another example is the work of inmate volunteers from the Monteith Correctional Centre who work with handicapped persons in therapy programs.

Our agricultural, energy management and waste management programs are designed to minimize operating costs in our institutions while emphasizing to the inmates the economic advantages of good citizenship.

Many construction projects, as well as repair and maintenance operations in our institutions, employ inmate labour, thus reducing our operating and capital costs as well as teaching worthwhile work habits and techniques.

Health care is an important aspect in the rehabilitation of our inmates, many of whom are

in poor physical condition when admitted to our institutions. The ministry employs a large number of full-time and part-time doctors, dentists and nurses. Our catering service stresses a varied and nutritious diet with cost effectiveness in mind.

Educational opportunities and training in the life skills necessary for successful integration into society are available to many of our inmates. Various forms of constructive recreational and sports activities are provided by our institutions.

The offender's responsibility for taking opportunities presented by the correctional system is a particularly strong theme within our community programs. For example, within the broad framework of the probation order, courts may order restitution. It is the ministry's responsibility to ensure compliance with these orders and this year's payments, which total over \$2.5 million, are being turned over to victims.

We have recently successfully expanded the successful victim-offender reconciliation program first begun by the ministry in the Kitchener area in 1976. In this program, a trained mediator brings the victim and offender together and helps them to negotiate a contract to make at least some reparation for the damage done. This reparation could involve financial compensation or services in repairing damage and it does, of course, include those intangible qualities which include acceptance by the offender of responsibility for his act and the remorse and regret which ensues. It also provides the victim with some understanding, at least, of the motivation which led to the act and the fellow citizen who committed it.

One success story was illustrated in Today Magazine's edition of March 28, 1981. The crime reported involved a bicycle theft and damage to property. In this case, the offender made financial reparation and as well worked with the victim in repairing the damaged bicycle. Here the victim commented: "I met Chris and saw he was like me, but I didn't want him to get away with just paying money. I wanted him to fix the bike." Then, from the offender, the response we see many times over in our community programs: "When I was taking those bikes I never thought about the owners. Now I realize I was hurting people and I wouldn't do it again."

Today we have a community service order program operating in over 70 communities provided by private agencies working under contract to this ministry. These agencies super-

vised some 5,000 offenders during the course of the year and represent a wide spectrum of the community including St. Philip's Anglican Church in north Toronto, the Lions Club in Atikokan, the Rotary Club in Barrie, the YMCA in Oshawa-Whitby and the John Howard Society in Kitchener.

The 450,000 hours of work performed annually in the community service order program cover a wide variety of activities including the building of ramps for the handicapped, designing and building eating machines for quadriplegics, helping crippled children with swimming therapy, visiting the elderly and reading to the blind. Of offenders who have been included in our community service order programs, 88 per cent have remained free of any reconviction over a one-year period, and of the 12 per cent who failed by this measurement only half were incarcerated for further offences.

Our 47 community residences also emphasize the responsibility of the offender to the community, since the majority of their residents are wage earners who support their families, make restitution in some cases and, of course, pay their share of taxes. This program, which houses over 400 offenders at any one time, costs approximately \$25 per day per resident as opposed to over \$60 per day for inmates in our institutions. In addition, the offenders earn a total of \$2.5 million in a year and over 80 per cent of them remain free of reconviction for further offences for a period of at least one year after release.

Our community resource centre program is able to service a number of specialized groups of offenders who can only be accommodated with great difficulty in correctional institutions, including the mentally and physically handicapped and female offenders with young children.

Since April of this year, we have opened or are in the process of opening additional residential facilities in Windsor, Cornwall, Kenora, St. Catharines, Guelph, Oshawa, Sudbury and a bail hostel here in Toronto.

Employment search, especially for youthful offenders, is an important activity operated through 37 community-based programs which involve community agencies as well as our own staff in helping offenders develop their skills and seek employment. Over 750 cases are handled each month and some 4,200 hard-to-place individuals are made ready for employment or placed in jobs each year.

Bail supervision and bail verification are new

programs that have been developed by the ministry as an alternative for persons who would have been otherwise remanded in custody. We are now able to place some of these alleged offenders in our community resource centres. These alternatives to incarceration provide accused persons with opportunities to keep their jobs or to continue with their job searches and are less costly to the taxpayers than periods of remand in our jails and detention centres.

The responsibility of the community for the care of offenders is exemplified by our volunteer programs. Some 7,000 citizens participate in activities which range from membership on boards of directors of associated community organizations through volunteer probation officers to those who work with offenders in our institutions.

9:40 a.m.

The involvement of these citizens and the value of the responsibility which they bring is immeasurable. Most important, they share with their friends in the community some of the problems faced by the offenders and by the staff members of the ministry who are involved in their supervision. They underline the awareness that offenders are themselves part of the greater community to which they will soon return.

I would like now to draw to your attention the responsibility the ministry has demonstrated as a nationwide leader in the corrections field. Examples of this leadership are demonstrated by the number of agencies or individuals in the corrections field who come annually to Ontario to learn about and study our programs. Many have been so impressed as to hold their annual conferences in Ontario.

For example, last year the National Association of Pretrial Services held its national symposium in the province, which was attended by nearly 500 people. The American Probation and Parole Association held its annual conference in the twin cities of Niagara Falls, Ontario, and Niagara Falls, New York, with over 700 participants. This past year, the National Organization on Victim Assistance also held its conference in Ontario and the programs funded and operated by this ministry were highlighted.

Next year, the prestigious American Correctional Association will be holding its 112th annual conference in Toronto. We expect to host close to 3,500 participants from all parts of North America. Next year also the International Halfway House Association will be holding its biennial world conference in our province.

We have also entertained individual visitors

who have come to Ontario to study our correctional system from many states of the United States, Australia, New Zealand, Great Britain, Japan, West Germany, the Netherlands, Denmark and Sweden. I am very proud that visitors from these other states and countries have sought out Ontario as a place to learn about correctional programming in both institutions and the community.

I would like to point out that one of our staff members has just returned from work in Japan at the expense of his Japanese hosts. Others have been loaned to the Inner London Probation and Parole Services in Great Britain, to the city of Philadelphia, to the Federal Probation Service in Washington, DC, as well as to the government of Canada.

I would like now to turn to the administration of this ministry which provides a solid base for all of our institutional and community programs. Since these aspects of the ministry's operations are rarely mentioned or brought to the attention of honourable members, I would like to touch briefly on their work and upon the reputations which they have earned in Ontario and often much farther afield.

Our planning, research, audit and inspections activities are designed to review and evaluate the work of the ministry and to assist in planning and designing new directions for our ministry's programs. The computerized financial, personnel, inventory control and inmate and probation information systems are among the most progressive in the Ontario government and in some cases have been adapted for use by other ministries. Our inmate recording systems have also been adapted by the province of Alberta and extensive consultation in management information systems has taken place with British Columbia and Saskatchewan as well as the government of Canada.

Our specialist staff are in constant communication with their counterparts in other provinces, the United States and elsewhere. Many have been asked to consult with other jurisdictions. For example, our chief architect has assisted in programming and designing correctional institutions in other provinces and has given advice freely to correctional authorities across Canada. In addition to this, he has developed a definitive five-volume work on correctional architecture and engineering which is now in use in many countries of the world.

The staff of our inspections and investigations branch has recently provided extensive assistance to Nova Scotia. They have given

advice to officials of Prince Edward Island, New Brunswick and Quebec as well as those from as far away as Japan, Saudi Arabia, Bermuda and Austria. The extensive reports which are published by our research services section are made freely available to the public on request and are sent to universities, community colleges and libraries in Ontario and to many interested organizations in Canada and elsewhere.

Within the government of Ontario, many of our senior staff have been seconded to work with important service-wide task forces involving, for example, executive development, the use of permanent part-time staff, financial and budget planning and human resources development.

I have chosen today to provide an extensive outline of some of the important developments that have been made in the corrections field in Ontario in recent years. I have done so simply to give credit where much credit is due.

Working with criminal offenders is not a glamorous business. The public is often ambivalent about men and women who contravene our society's laws. Certainly, some citizens would just as soon assume an "out of sight, out of mind" attitude.

For the staff of the Ministry of Correctional Services, their work only begins after the offender is arrested. No matter how repulsive or vicious the crimes that have been committed, correctional workers must remain neutral and nonjudgemental in regard to the offenders whom they supervise. They are called upon to combine custodial and/or supervisory roles with roles as agents of positive change. Often their work is frustrating and there are many disappointments when they invest care and concern in an offender's welfare only to have him revert to unacceptable behaviour patterns.

But they keep on trying because they are people with a high degree of dedication and commitment.

If there is one point I want to make today it is that we in this province are blessed with an extremely dedicated group of workers in the corrections field. The staff of this ministry are real professionals and they are among the best in the world.

That is not to say we should be complacent. There are no easy answers to combatting and overcoming the rise of crime in our society. There are no guaranteed programs for curing offenders. But as long as we have dedicated individuals who are prepared to devote their lives to the challenges of helping offenders to become acceptable members of our society, then there is hope of increased success in this most difficult field.

On behalf of myself and the citizens of this province for whom these individuals work, I would like to express sincere thanks and appreciation to the staff of the ministry for their efforts over the past years and to wish them every success in meeting the challenges of the future.

Mr. Chairman: Are there any questions or anything arising out of the minister's statement before we continue on our next leg of the estimates?

Mr. Breaugh: I think we can probably handle it better when we give a response this afternoon.

Mr. Chairman: Good. We will carry on as per schedule. Mr. Breaugh, do you have a copy of the agenda?

Mr. Breaugh: Yes.

Mr. Chairman: Good. I understand we had better clear our things out of here because we are being usurped.

The committee recessed at 9:48 a.m.

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Ontario

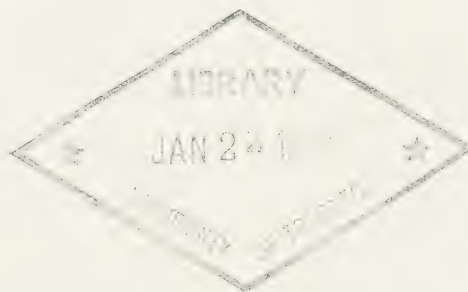
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Legislature of Ontario Debates

Official Report (Hansard)

Standing Committee on Administration of Justice

Estimates, Ministry of Correctional Services
and Supplementary Estimates, Office of the Assembly



First Session, Thirty-Second Parliament

Wednesday, December 16, 1981

Afternoon Sitting

Thursday, December 17, 1981

Speaker: Honourable John M. Turner

Clerk: Roderick Lewis, QC

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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, December 16, 1981

The Committee resumed at 3:56 p.m. in room No. 228.

ESTIMATES, MINISTRY OF CORRECTIONAL SERVICES

(concluded)

Mr. Chairman: I see a quorum so we may proceed with the estimates of the Ministry of Correctional Services. At this point, does any member have questions? Mr. Spensieri, as the critic, do you have any questions or comments to make, to lead off?

Mr. Spensieri: No, Mr. Chairman, I was preparing to reply to this morning's statement.

Mr. Chairman: Fine. Will you go ahead with your statement?

Mr. Spensieri: Mr. Chairman, it is with pleasure that I participate in the estimates of the Ministry of Correctional Services, and congratulate the minister and the deputy minister on their appointments.

The tasks of this ministry, with the exception of pretrial detention, commence with the pronouncement of sentence. The judge attempts, with a varying degree of skill, to reconcile the general needs of society by protecting it from antisocial behaviour, and to rehabilitate the offender from his former antisocial criminal conduct. Therefore, when the judge's task is complete, the work of this ministry begins. How this ministry acquits its responsibilities towards the guilty and how this ministry corrects the offender is the subject of discussion for this committee.

Oscar Wilde once wrote some lines in a typically semi-serious fashion to depict, from the prisoner's point of view, the particular melancholy of the inmate's life, which I guess we saw this morning:

I know not whether Laws be right,
Or whether Laws be wrong;
All that we know who lie in gaol,
Is that the wall is strong;
And that each day is like a year,
A year whose days are long.

The wistful loneliness of these sentiments must have influenced the ministry when it

drafted its guiding principles, as they appear in the 1980 report of the minister. We have not, by the way, had the benefit of the 1981 report. The success or failure of the ministry can be usefully measured against the context of these principles. I shall cite only the first three because, for the purposes of my ensuing remarks, these will suffice to establish a framework.

The first principle is that, wherever practical, correctional programs should be community based. This we certainly saw this morning. Second, the emphasis should be on helping offenders develop and maintain responsible and acceptable behaviour within the community. Third, the correctional programs should apply that degree of control necessary to protect society, thus necessitating a continuum of programs with progressively increasing supervisory and structural controls.

It seems to me that in the implementation of these principles, the minister seems to have adopted what I could describe as being the double D, double P approach. That is to say, deinstitutionalize, decentralize, privatize and pay as you go. The slogan on the 1982 calendar put out by the ministry puts it very succinctly: "Doing time means doing work." It is not quite as melodious as "keeping the promise," but for those of us who believe in the work ethic it is indeed a most welcome approach.

I know some of us have not been around before so it might be useful to see how these approaches have evolved through the previous ministries. We have, of course, come a long way from the days, only a decade or so ago, when this ministry was known as the Department of Reform Institutions. Obviously, we were then dealing with looking after jails as the main focus of the ministry, institutionalizing the offender in a way that he or she was likely to feel punished.

4 p.m.

This spartan and punitive mood was only slightly modified during the years the member for Scarborough Centre (Mr. Drea) was minister, with his talk of Georgia-style work gangs, no orange juice or coffee, and wire tape with razor-sharp teeth that "will take your tattoos right off," to quote the honourable minister. No

frills such as carpets or TVs. "Straight hard cell time," to quote the minister again; "No nothing; you get your head shrunk."

With the member for London South (Mr. Walker) came the work ethic on a grand scale. Speaking to the London Rotary Club in 1979, he said: "Our jails are not vacation retreats. Work has significant benefits for many inmates"—and then, one suspects with a little chuckle—"it also means generating funds to alleviate the cost burden to the taxpayer."

With the member for London South, corrections became an industry. The ministry got into industrial operations, netting millions of dollars of revenue to the government in the first year. With a Messianic fervour that one would expect from robber barons, the minister said: "We have the potential to convert the correctional system into a significant source of new revenue. We must enlist the help and partnership of private enterprise if our operations are to expand and flourish." Such a colonizing spirit has not been lost on the present minister, I am happy to report.

The minister points with justifiable pride to the growing self-sufficiency of some segments of our jail population, as he does in his June 17, 1981, statement, to wit: "622 tons of root crops, 26,000 dozen eggs, 5.5 tons of pork, \$202,000 all in." While the minister speaks of cost-avoidance to the taxpayer during a period of spending constraint, one must wonder out loud about the motivation for this empire-building. Is it to achieve objectives which our penal system was intended to produce, that is, deterrence, rehabilitation and punishment or retribution; or is it another false economy? Put another way, what portion of that \$12,176,800 spent on supplies and equipment went into producing \$202,000 of produce?

In our view, prisoners should not sit by idly when they could be performing useful work. On the other hand, the heavy outlay of equipment and capital expenditures, not to mention additional managerial and supervisory costs simply to provide a more memorable ambience, must seem extravagant to the average man or woman who toils at a boring job in an assembly plant in Yorkview, to produce the \$62.50 a day, or whatever the adjusted figure is this week, that it takes to maintain a prisoner in Ontario. The obvious approach, I submit, is work, yes, but not necessarily a new agrarian or industrial empire. We in the opposition would like to see inmates do useful work which would not otherwise get done.

While revenues are up, the ministry has also embarked on a bold program to substantially reduce its client base. As every good manager knows, the way to balance your books is by increasing revenue and cutting expenditures. We call this deinstitutionalizing and decentralizing. You move from institutionalized imprisonment and nonimprisonment alternatives in a centralized system, for which the ministry is answerable, to creative sentencing techniques for which, under the name of community-based programs, no one is answerable.

The rationale is simple. Since only six per cent of crimes committed in Ontario are of a violent nature, all other crimes, that is, 94 per cent, are not deserving of incarceration or rigid institutional care. The upshot is that you can turn this garden-variety criminal loose. Nor do you need trained personnel to do it; you use volunteers.

Eva-Schindler Rainman, in her book, *The Volunteer Community*, which I recommend to members, states: "In another trend, volunteers are serving as links between the institution and its clients." She gives examples of the doctor's aide who acts as a link between the doctor and the patient, the volunteer who serves as a community aid and tries to link parents to the school and vice versa. I suggest this is a perfectly admirable role for the volunteer sector.

However, the volunteer, be he an individual, an organization or agency, can never be more than a link. The ministry, unless it is careful, is on the verge of turning the link into the very system it was supposed to help improve. When one considers that only 3,000 detainees a day are under direct ministry care, while 39,000 are under probation or parole—that is to say, volunteer, agency or organizational care—one can easily see how imbalanced and diffused the system has become.

This should not be interpreted as a criticism of those volunteers or those more than 225 agencies which will receive upwards of \$10 million this year from the ministry; nor of the general aim of keeping as many people as possible out of jail. They are perhaps taking on more than they or the communities in which they serve can handle, and certainly more than this government should expect them to handle. We must remain vigilant to ensure that this minister or this staff is alert enough to supervise such a widely scattered network of nongovernmental agencies, engaged in everything from pre-trial services to supervising community

service orders, to restitution, to community resource centres, the employment program for parolees and probationers, et cetera.

I now wish to turn to privatization. Privatization takes two forms. The use of community contracts with agencies and individuals as opposed to the use of the civil service, and the granting of a specific role to the private entrepreneur in a hitherto public sector function such as corrections. One example is the more than 40 contracts the ministry has granted to operate CSO programs. Payments to the private sector in this area have risen from \$116,000 in 1976 to \$2.4 million in 1981-82, a 2,000 per cent increase.

What degree of control can the minister exercise once the contract is awarded? What assurances can we have of uniformity of procedure? What guarantee is there that the minister's policies and guidelines will be adhered to? These are the unsolved riddles of this delegated approach.

I now wish to raise some specific concerns for the minister's consideration.

With respect to overcrowding first: we all labour under constraints in these difficult times. In the light of this government's recent commitment of billions of dollars to the oil industry, however, fiscal restraint is now legitimately a matter of polemics. I mention this only to belie any explanation for overcrowding on the basis of unavailability of funds.

The minister recalls having to transfer 150 inmates to Mimico Correctional Centre in November, due to the intolerable overcrowding at other Metro jails. The Don alone was reported to have its inmates triple-bunked. If the ill winds of our economy augur an increased prisoner population, I would like the minister to advise this committee at some point as to what his long-range plans are to cope with the situation.

With respect to this issue, I wish to comment that I endorse the proposal made by members of the Ontario Public Service Employees Union, which introduces the incentive merit system by which the quality of each jail and detention centre is measured, with a view to its improvement as well as a means for premium pay for the worst institutions.

There is the problem of the holding cells, of which the minister is well aware. Many of Ontario's holding cells are said to be a disgrace, degrading the prisoner, the lawyer and other professionals involved.

Harold Levy, the editor of the Criminal Lawyers' Association newsletter, himself a crim-

inal lawyer, has brought this matter to some public light. Of special criticism as being below minimum standards he has singled out the holding cells at the old city hall, at the East Mall, and at the Brampton Clarence Street provincial courthouse.

Persons charged with offences have the right, nevertheless, to be treated in a humane way. The nature of these holding cells renders minimally decent treatment, let alone humane treatment, impossible. The minister ought to act to remedy this situation.

With respect to pre-trial detention facilities, in conjunction with the Attorney General (Mr. McMurtry), the minister must devote his attention to the fact that nearly three out of every 10 inmates is in custody without ever having been sentenced by a judge. I recognize the difficulties inherent in the resolution of these issues. Nevertheless, a figure of 30 per cent is way too high.

Bail verification and supervision programs are a good step for the ministry to cope with the issue, if properly supervised. Is the minister able to advise us of any ongoing policy discussions which he is having with his cabinet colleague? Ought the minister to consider, as part of a comprehensive approach to this issue, the creation of distinct facilities for accused persons, as has been done in the bail facility operated by the St. Vincent de Paul Society, for accused persons at the pre-trial stage as opposed to convicted persons post-sentencing? I look forward to hearing the minister's opinions in this regard.

4:10 p.m.

With respect to community orientation, in keeping with the stated principles of the ministry, and indeed of enlightened policies throughout western democracies, the minister affirms the thrust of the community orientation of correctional policies. Does he have any new initiatives planned to further buttress this orientation? Does he plan a tighter supervisory role by ministry officials? Will past experience offer refinements to existing community-based programs such as:

1. The victim-offender reconciliation program: Can it be further institutionalized so that judges will not feel reluctant to prescribe it in sentencing?

2. The temporary absence program: For instance, it is desirable, if possible, to reduce the time required to process an application for an ordinary TAP. Occasionally, in instances where a sentence is less than 30 days and the judge has

not made a specific order for an immediate temporary absence program, the length of time required to process an inmate's application is such that some institutions consider the effort involved unworthy from a pragmatic point of view. This, of course, perpetuates a hardship on the inmate in whose eyes no effort, pragmatic or otherwise, is unworthy.

3. The community service order: Have any municipalities offered suggestions to the minister by which this program could be made more effective? Is there an ongoing study and monitoring of these programs by the parole and probation resource persons? Can the minister provide any information in this respect?

In drawing to a conclusion, I would like to talk about the youth of the offenders. When one considers, as we saw this morning, that fully half of the inmate population are under the age of 25, and that the entire juvenile justice system deals with youths under 16 years of age, the minister's attention must be heightened, as it undoubtedly is, to the need for designing corrective programs to ensure, as much as is humanly possible, that these youths in our system are steered away from a destructive and degrading style of life. In this respect, the corrective system must incorporate into its objectives the educative system as well. Is the minister planning additional programs to those now in place, specifically geared to the need of youthful offenders?

Related to the treatment of youthful offenders is the larger question of remedial programs within the jails and detention centres themselves, aimed not only at the under-25 population, but at the entire population—what the ministry euphemistically refers to as its clientele. In estimates last year, my colleague the member for St. Catharines (Mr. Bradley) referred to this problem area and said: "The obvious one is programs in terms of remedial teaching, in terms of those who have specific problems with education, people who perhaps need to have their problems isolated and dealt with in terms of special education.

"One of the things that was most immediately apparent is that for the most part people who are in these institutions are people who have not been able to compete in our society because they have not had the tools to compete. They have not had the education to compete. We look for preventive programs to ensure that this does not happen." I repeat my colleague's call for preventive programs. In the final analysis, this is the best method at society's disposal to cope with the proliferation of crime.

I have other specific areas of concern, but in the interests of time I shall pursue them at other times and places. Theories of correctional treatment have evolved a great distance in these past few decades. It was not very long ago in this jurisdiction, and unfortunately such is still the case in most of the world today, that punishment bore no relationship to the crime. It ceased to be punishment. It became torment for its own sake, itself an anti-humane crime. The judge, having imposed society's sentence on the guilty, then discharges to the care of this ministry the correction of the person sentenced. In the majority of cases, the community will receive back into its midst the person sentenced.

Many authors have written through the ages on the nature of the rehabilitative change for the inmate as he serves his sentence. Our society's greatest treasure is the right to which we were all born, to exercise our liberty within the rules. Our society's greatest penalty is the retraction of that right. In concluding, I turn for a moment to Oscar Wilde, who captured this notion very well:

I never saw a man who looked
With such a wistful eye,
Upon that little tent of blue
Which prisoners call the sky.

Mr. Breagh: Mr. Chairman, I want to begin by being noncritical and saying that, even though I personally have had an atrocious day today, I think the concept we are trying to get with this set of estimates, that is moving the members out into the work of the ministry in the field, is one that is long overdue. For me, and for anybody who had a chance to participate today, it was far more useful than spending long hours in a committee room going over a long list of problems and nonproblems and official and not so official statements. I would encourage this committee and others to expand upon the idea tried here today to get a committee of the Legislature out into the real world and see how things really are, as opposed to talking about theoretical models ad nauseam.

I also wanted to point out that in many ways, if one simply listened to the staff people who addressed the committee members today and read the brochures put out by the ministry, one would assume there were no problems out there. So I am going to assume for a little while the traditional role of a critic and try to point out some areas where it strikes me there are very serious holes in the system and very serious problems to be dealt with.

First, as in almost every other ministry, in the role that the ministry plays it seems that women are at the bottom of the heap, the lowest in priority, getting some verbal attention but not a great deal of money paid to solve some problems. In essence, I would be one of those who would be happiest if there was never a need for a correctional institution at all, if somehow society could get around to dealing with people who have difficulties with the law before they hit a court room, before there is a police investigation, before there is a need for incarceration, with some kind of program that might reform that individual.

In many ways, we are getting to the point where we can identify several concrete programs that will do just that, that will in fact solve the problem before it becomes a crime. In the area of work with young people, we have now had enough experience to say with some justification that there are prevention programs that will resolve without the use of the court system the difficulties a great many young people get into. This ministry has a number of programs that are attempting to do that.

Battered women are another good example of a problem in our society that can very quickly become either a criminal matter or a social matter. In my own area, and in most areas of the province, it is true that there are no centres for battered women, or not enough of them, not enough funding. We can all find token programs here and there around the province, but the need is clearly established, and the technique of some kind of shelter is one that has now been proven to deserve more funding from the ministry.

That is perhaps capsulizing the direction in which I would like to see the ministry go; to take some action before it becomes a criminal act, before it becomes a major problem for the courts and the correctional services institutions to look after. If there was a shelter where a woman who was threatened could go with her children before a crime occurs, that would be the best form of correctional service I could think of.

I know we have agreed to time limitations that will not let us go into this in much detail, but in many parts of Ontario there have been requests put together by volunteer groups for funding. There have been some attempts to put together, and some are now in operation, shelters that deal with specific kinds of problems for women, but they are just getting off the ground. I would encourage the minister, in the

very near future, like now, to free up some money, to listen to his own staff people as they identify the needs and the proposals that are there, and to see if, on a rather large scale, you could put into practice units like shelters for battered women, which prevent crime from being the technique through which to take an individual through a court system and a correctional service system.

We have enough information with youth, with women, with a number of other individuals who are facing difficulties these days. The verdict is in on that and the approach does work. I would put to the minister that in many of our communities the economics of the day are such that, without question, crimes of that nature are going to increase dramatically. In my area, a depressed auto industry town, not as bad as some but certainly not a problem to be dealt with lightly, the incidence of domestic crime is on the increase now, and when the statistics roll in at the end of the year they will show an unfortunate record in that regard. Unless things change dramatically in economic terms in my area, and in Windsor, Oakville, Toronto, and almost all our industrial centres, that is going to become a major problem in the foreseeable future.

4:20 p.m.

We saw Mimico today—and perhaps one might offer some criticism that it is not a very fancy place but is a functional place—we saw it today operating at a capacity it can handle. I dare say three days from now it will be at a capacity it cannot handle.

In the Don Jail, in fact in all of the jails that are run by the ministry in and around Metro, the exact same problem is there. They are operating double bunks, sometimes triple bunks. That is becoming a way of life. Jail guards are being threatened in that kind of a situation. Recent newspaper articles on the detention centres here in Toronto, and others in other parts of the province, in my area in Whitby and in the north, say that detention centres are from time to time so jammed as to cause a situation that is unhealthy.

You have the unfortunate situation of a correctional centre, a detention centre, supposedly providing a secure environment, in effect creating problems of its own—that is to say, institutions such as Mimico, the Don Jail or Whitby Jail, which have the capacity and staff to handle certain work loads. Once you hit past that work load, the place becomes a dangerous place, in fact, and not a secure place any more. I

know the minister is unlikely to accept that kind of a flat-out argument, and it would be understandable to me if I heard a Minister of Correctional Services saying, "Well, we may be a little full, but we are never hitting a danger point."

To be sane about it, people who work in correctional institutions have an obligation to provide good care, but they can only do so up to a point. In part, the problem is physical. The institutions were not designed to handle that many inmates. In part, the problem is one of a work place. You cannot expect the correctional services officer who is faced with two and three times the normal work load to be able to do that job effectively. That is a problem.

I want to make a couple of comments about that. I was a little bit disturbed by one story in the *Globe and Mail* about Toronto jails, where the reporter was asking why all of a sudden the jails are bulging and why they are into double and triple bunking. The explanation given was essentially that the judges are back from the lakes and the court system, which does not work at full-tilt capacity over the summer, faces a backlog each and every fall when the magistrates roll in from Muskoka, put their boats away, don their robes, and fill up the correctional institutions.

There is probably a great deal of truth there. That is unfortunate, because I do not see any reason any aspect of our judicial system ought to slow down, or close down entirely, during the course of the summer months. There is a need to dispense justice on a regular basis. I am not saying magistrates do not deserve a day at the lake, but I am saying there has to be a way to solve that particular problem, since it is one of scheduling.

The other thing that disturbed me a bit about some of the press reports I saw at that time was that efforts were being made by the ministry, through its staff, to talk to the judges, in effect to beg the judges to provide variations on jail sentences; that is to say, to put out community service orders, do fines or to provide whatever alternatives they can so long as they do not put people in jail because the jails cannot handle them.

I have to think that is a hell of a note. If we have come to the point where the jail system is saying to the court system, "Don't send them in here; we don't have room," something is very much amiss.

While I might be a supporter, and am, of a number of the community-related programs for correctional services, I do not think the way to

start that is by running off to the judges saying, "Just don't send them in here." I think the problem would be that the success of the community programs of Correctional Services lies in the fact that your staff gets an opportunity to examine the individuals in some detail in a way that is different from the way a judge looks down on a prisoner in the dock.

The success ratio, of which you are quite rightfully proud in terms of community programs that you now operate, I think is directly attributable to having good staff people being able to relate to an individual in their custody over a fairly lengthy time and is not one that will work very well if the judge in the court who is saying: "I am sorry. We cannot put you in jail; so we are going to put you on the street doing something else." I think that would be the death knell of a number of very good programs. I would urge you to act with some dispatch on that particular problem.

I want to point out a couple of other things that I think are dangerous that you could fall into. I have here a story from the *Ottawa Citizen* which points out that there is a bit of overlap going on here. They are discussing a proposal by the personnel of the Ontario legal aid plan office to begin a duplication of services in the Ottawa area. There is a community service order program already under way and it is under-budgeted; I believe the budget in that instance is some \$33,000. Rather than have a beefed-up program, there seems to be another agency in town moving in proposing to run an identical type of program.

I understand that there are different ministries working in this, and that legal aid is not exactly within your purview, but I do think there is an urgent need for the ministry to co-ordinate the type of programs that are being duplicated in Ottawa.

I would normally not be against having two agencies running programs which might be similar in nature, but with a slightly different perspective, but I think the danger really is that initially when you have underfunded programs, programs which are pretty shaky around their financing, and if you have two of them out there and they both flop because neither one is properly financed, you wind up ruining good ideas. You ruin them very early, because neither one of them was properly funded.

I think the minister should exercise some care and discretion and should have considerable consultation with other ministries and other people such as those in legal aid who might be

proposing similar kinds of programs so that, for starters at least, what we will get functioning in the province is a network of province-wide programs that may well be run by the combination of volunteers and professionals in the field that we now have but that at least will not overlap. It is true that there will always be arguments about whether my particular program overlaps with somebody else's. There is no way we can get around that, but I know in my community and in everybody else's community there are all kinds of good projects out there that are dying on the vine because they cannot secure financing.

It is quite one thing, for example, for a group of people in my community to renovate a house, put a name on it and call it Destiny Manor, a place where women with alcohol problems can go; but you and I both know that if they cannot secure the ongoing financing for that kind of program through various ministries, all of that volunteer work, all of the front-end work involved in getting the place ready—painting it up, getting a board of directors in place and all of that stuff—is going to be for nought if there is no substantial and ongoing method of financing.

There are a couple of other things I wanted to mention. Frankly, most of the stuff I have seen comes out of the federal service, which is not related to yours, but they are concepts that are being tried. I noticed in a number of the federal programs that they are trying to do things, for example, like work farms. There are some interesting statements being made by federal staff that they cannot get the prisoners to go to the work farms, which strikes me as being rather shaky.

4:30 p.m.

I have always been one of those old-fashioned people operating under the illusion that we did not really run a hotel service here but that this was a correctional facility. I am wondering how close we are to paralleling federal programs, where in essence the federal government is saying, "We are going to try different kinds of correctional facilities." The prisoners are saying, "I don't want to go there because they do not have a good gym."

I think somewhere between what I saw at Mimico this morning and some of the palatial places I have seen operated by the federal government there has to be a happy medium. I guess by its very nature, a jail cannot be a pleasant place. That does not say it has to be a dungeon. It does not say that it necessarily has to be a luxury hotel either.

I am not aware that the minister has much of that in very many areas of his jurisdiction, but there are other things that are a little ironic going through his ministry. I guess everything is cyclical, but I recall a time when most of our correctional facilities were pretty well self-supporting. A number of them were farm institutions; they fed themselves and they ran little industries. It is refreshing to see that a fairly large amount of that is coming back in vogue. I am not so sure, though, that in a couple of areas you have not kind of missed the pail, so to speak.

At Mimico this morning I saw a number of empty buildings. It strikes me that if you were serious about rehabilitative work and you wanted to integrate that into the community, you have property, buildings and potential to begin new programs there which might work well. On the other hand, I guess I would draw my limit, because I have some difficulty reconciling having private companies function in our correctional institutions. I am not too sure how I justify picking up all or part of the overhead for a private firm to run its business on public property, using inmates from a correctional institution.

I understand the rationale behind all of that. It sounds good, but there is still that little flaw in there, which is exactly whether that is a public or private institution that is being run there. If private enterprise wants to participate in some way, that is okay by me, but I am not too sure that we should be housing and staffing a company that is in the private sector.

In a similar vein, I am sometimes a little surprised about the very limited extent of interministerial co-operation that goes on in this province. I know everybody will drag out his favourite example of what he is doing well with some other ministry, but why is there not an expansion of interconnected programs from one ministry to the other?

In this instance, as I said earlier, I think it is a little bit nuts to have your ministry, which houses prisoners, not being too clued in as to what another ministry, namely the Attorney General's office, is really doing and what exactly is causing this sudden rash of overcrowding in our correctional institutions. It seems to me there is a little lack of co-ordination there.

Why do we have private firms, for example, providing food to an institution like Mimico when a little farther down the street we have another public institution, namely, a hospital, that is very heavily into food preparation?

In other words, why do we not have tighter and more direct connecting links from one ministry to the other? Most of our hospitals have the capacity to do food preparation or laundry. In many of the centres that I know of in the province they could be far more competitive than anybody could in the private sector because of the scale of their operations. Why are we not utilizing capacity from one government-funded institution to assist another government-funded institution? I am not suggesting it would always be a one-way street either.

Those are some of the problems I had. There are a couple of other little points that I wanted to work in here, having to do with briefing material that was sent to me. One of the things I am supportive of is things like the temporary absence program, which seems to me to provide a reasonable combination of trying to rehabilitate somebody without disrupting his life entirely.

There are problems with the temporary absence program that I am aware of in my own area, and I am sure around the province it is no different. There are problems about supervision and about whether there really is a rationale for granting temporary absence to someone who is, in name, an inmate at a correctional institution, but from the public's point of view, from all visible means there is no difference, he is staying at a different hotel, maybe, but—there is that problem.

By and large, I think the temporary absence program is a successful approach to working with people who have run afoul of the law, one which I want you to continue.

The last little point I wanted to bring up is something of which I know you are particularly proud, and that is the use of volunteers. Your staff people mentioned it to me a number of times today. Frankly, I am a believer in the use of volunteers to provide certain kinds of services in almost any of the ministries that I can see, but I am a little cautious, perhaps more cautious than they would be, about putting volunteers in a situation where professional expertise is really required.

I know that in a number of our institutions there are programs operated by volunteers. People go into our correctional institutions on weekends and during the evening and provide counselling. What I am a little leery about is exactly what kind of counselling is going on there. What standards are set by the ministry to sort out the various volunteer agencies that

want to go into our correctional institutions? For example, I am a little concerned about physicians who go into correctional institutions and, in a sense, experiment with inmates.

On the other hand, to go to the other extreme of this, I am aware of a concept called the Save the Youth Now Group, which is essentially using convicts. I believe there is a little bit of this in our provincial correctional institutions. I know there have been quite a few of them in federal institutions.

It was brought to my attention that the status of these programs is somewhat in question. The volunteers are in the institutions, they are running their programs, but there does not appear to be much in the way of official recognition of the programs. In other words, the programs are there, being run in the institutions, and we all know about it but they are not really recognized by the government.

Have you managed to sort that out? Do you ask the people who are working in our correctional institutions about the exact nature of the program, the background and expertise of the people who are implementing that program? In essence, are you sanctioning the program when you do that?

I had assumed, I guess wrongly, that when someone who is running one of our institutions allows a volunteer group through the front door to do something in there, in essence he is sanctioning whatever the group is doing, whether they are distributing Bibles, singing, doing some kind of therapy or whatever.

I am told, though, that in many respects that is not true; that they are allowed access to correctional institutions, but that does not necessarily mean that the government approves of what they are doing. In a number of areas—such as the use of drugs or therapy with physicians; the use of unusual counselling programs in other instances, like STYNG—what is the status of the volunteer who is at work in a provincially operated institution and what is the responsibility of the government?

I want to leave a little bit of time here, because the member for Cornwall (Mr. Samis) approached me today and said he wanted to raise a few issues; so if I may, I will leave perhaps the last four minutes for him. Will that be kosher?

Mr. Chairman: Fine. Perhaps the minister would respond. By the way, it sounds as if my mike is on, but my light is not. Are we having the same ghosts and gremlins here as we are having in the House?

Clerk of the Committee: You are on.

Mr. Chairman: Thank you. The minister might respond, and then the member for Cornwall might bring his questions along later.

Hon. Mr. Leluk: Mr. Chairman, I want to start out by thanking both Mr. Spensieri and Mr. Breaugh for their comments.

Probably it would be best for me to deal with Mr. Spensieri's comments first. I just want to point out that the underlying philosophy of this ministry is that those who offend against society should be put to productive work. I think our trip to the Mimico Correctional Centre earlier this afternoon gave members of this committee an opportunity to see some of our work programs and how this philosophy is applied in practice.

4:40 p.m.

When Mr. Spensieri talks about our building an agrarian empire, in reference to our self-sufficiency program, I would like to comment that our work effort is carried through into this program. We are attempting through our self-sufficiency program to become somewhat more self-sufficient in food production. This five-year program now is in its second year.

Possibly Mr. Spensieri had his figures somewhat confused. Our cost of production for the self-sufficiency program is about \$356,336, and the total wholesale value of all produce was \$460,059, yielding a cost avoidance to the taxpayers of this province of \$103,723.

He made reference to Oscar Wilde and commented about the melancholy of inmates. I can recall my travels around this province and having visited our institutions. I can recall visiting Thunder Bay, visiting our farm at the detention centre there and seeing the inmates coming back into the facility after a full day's work at about five o'clock in the afternoon, smiling, happy, having been out in the fresh air and having put in a good working day.

A much different attitude prevailed than I had seen earlier that day in a jail where some of the inmates did not have the same freedom of movement because many of them were remand cases and were not able to be involved in various types of work programs.

Going back to the self-sufficiency program, I would not say we are attempting to build any kind of empire. We believe in the work ethic. We have a number of work programs. This program is one that does help to defray the cost to the taxpayers. It does provide for some

positive input by the inmates during their stay in our institutions. The positive result is that they produce vegetables, root crops, poultry and eggs and what have you for their own consumption. We are not building empires.

Mr. Spensieri also mentioned that there is an imbalance between the number of inmates who are out in the community and those who are incarcerated in our institutions. We have a largely community-based program, with some 38,000 probationers out on any given day. There are those inmates who require to be incarcerated and who cannot be let out into the community. For public safety reasons, these people are not allowed out in the community. Many of those may be on remand and are not allowed out into the community.

If we were to incarcerate everyone who was sentenced to our care, we would have to build all kinds of institutions to keep them there. I do not think that is what society wants. In rehabilitating these people, there are those who can function in a community setting, whether it be a correctional resource centre as we saw today at Stanford House in the Parkdale area, or in the community under the temporary absence program to continue to work, receive an education, earn a salary, provide for their families and dependants without having them go on welfare rolls and pay their own way and pay taxes. I do not know what more I can say about that.

You asked about our community service order programs and what control we have, if any. I would like to say a few words about that. The controls are accomplished in a number of ways. We have an inspections branch in our ministry. We conduct audits. There are frequent contacts with parent institutions. For example, under section 9 of the Ministry of Correctional Services Act, it says, "Every person providing volunteer services to the ministry shall serve under the direction of an employee of the ministry." Since most of these programs are operated for us under contract to private agencies, there is control through that section.

The contracts with these agencies are drawn carefully, and there are regular reviews of various procedures. The contracts for services rendered are of a one-year duration with a 90-day cancellation. These are under the program control of some 42 area managers throughout the province. There is a regular review of procedures and policy, and the ministry financially audits each program annually. The programs are monitored for efficiency through our management by results process, which has more than 300 efficiency effectiveness indicators. So there is adequate control exercised with respect to these programs in the community.

I might point out as well that there are several volunteer co-ordinators who are employed on a full-time basis by the ministry. The recruiting and screening of our volunteers is done like any other employer, and we have regular training. There is appraisal of the volunteer work. We have recognition nights for the time that is put in by our volunteers, and there are formal standards for volunteer work.

With respect to the overcrowding situation described in news articles that recently appeared in the Toronto papers, it should be pointed out that only five per cent of the inmate population in the Toronto Jail was being triple-bunked. It is true that we have an overcrowding problem, particularly in the Toronto-Hamilton corridor. My staff and I have been addressing this problem.

There are a number of reasons why these conditions prevail. One of the reasons is that there has been an increase of approximately 37 per cent in the provincial court work load dealing with Criminal Code offences in the past five years. The judges are tending to sentence to longer periods, particularly in the range of sentences from one year up to two years less a day. This has led to a backlog of persons who are awaiting medium-security beds. At one time this year, earlier in the spring and summer, we had some 240 inmates awaiting beds.

We have been addressing this problem in that we have beefed up and are beefing up security at Mimico Correctional Centre, where we have available space for about 150 additional inmates. By the first of the year, we hope we will be transferring some of our inmates out of the Toronto Jail and the Metropolitan Toronto East and West Detention Centres. This should take some of the pressure off these facilities in the short term.

4:50 p.m.

I think it is fair to say that our staff have been looking at the possibility of having to build an additional correctional institution somewhere in the Toronto area or in the suburbs. This kind of planning takes some four to five years to bring such a facility on stream. Before we move in that direction and make a final commitment to build, we owe it to the taxpayers of this province to look at all possible alternatives because of the excessive costs associated with building such an institution.

I want to point out to this committee that the cost of building a maximum-security facility today runs at about \$100,000 per bed, which is more expensive than a hospital facility. To build

an institution to house 250 inmates would be running us in the neighborhood of about \$25 million to \$30 million, which is an exorbitant cost the taxpayers would have to bear.

Mr. Breaugh: You could buy two jets for that money.

Hon. Mr. Leluk: It depends on which kind of jets they are.

The holding cells Mr. Spensieri spoke about really do not come under the jurisdiction of this ministry but under that of the Attorney General and the Solicitor General; so we do not have control over the conditions of those cells.

The bail supervision and verification program is, in our opinion, working well. We are addressing the problem of the pretrial inmates. We have established a bail hostel in the Toronto area, which I understand is the first of its kind in Canada. This is operated for us at present by the St. Vincent de Paul Society, and we are monitoring how this hostel is working. We may open more such hostels across the province in the future; so we are addressing that problem as well.

I think reference was made to the fact that we have been speaking to the judges in the criminal division. I do not know if it was Mr. Spensieri or Mr. Breaugh who said we were trying to tell the judges how they should be sentencing the inmates. In addressing this matter, I want to say that in the past we have been invited to speak to the judges at their conferences. I have addressed four such conferences in the past year.

What we have tried to do is to make them aware of alternatives to incarceration. There is no way, Mr. Breaugh or Mr. Spensieri, that we would attempt in any way to try to tell the judges how they should be sentencing. That is something that is the prerogative of the courts over which we do not try to exercise any kind of control or—

Mr. Breaugh: May I interrupt? The quote from Don Kerr, your director of communications, is quite specific: "We have been meeting with judges urging them, wherever possible, to use alternatives to prison." Now that is not visiting local judges' meetings.

Hon. Mr. Leluk: I am not familiar with the statement made by Mr. Kerr. I am sure what is meant there is what I have said, that we have made them aware. We certainly have never told them they should be sentencing people to short terms or what have you. That is the prerogative of the courts. I want to make that very clear.

The comments my staff have had and that I

have received from some of the judges who attended these seminars have been positive. I can say they appreciated that we would come and speak to them and let them know what is happening with the offender once he leaves the courtroom. We have had a very positive reaction, so I am somewhat surprised by your comments in that regard.

Mr. Breagh: Just for your information, that quote is from the Globe and Mail of November 9. It is a direct quote from Don Kerr.

Hon. Mr. Leluk: I do not believe everything I read in the Globe and Mail, I am sorry to say. Maybe you should not either.

Mr. Leluk: Is the quote inaccurate?

Hon. Mr. Leluk: I am just saying to you that as far as I am concerned it is.

Mr. T. P. Reid: Ask Mr. Kerr. Isn't he here?

Hon. Mr. Leluk: Yes, he is.

Mr. Breagh: I would like to ask the minister, though, is the quote accurate?

Hon. Mr. Leluk: No, the quote is not accurate.

Mr. Breagh: So you have not been meeting with judges?

Hon. Mr. Leluk: We have been meeting with judges but we have not been urging them—

Mr. Breagh: You have not been urging them, wherever possible, to use alternatives to prison?

Hon. Mr. Leluk: We have been making them aware of alternatives to incarceration.

Mr. Breagh: But that is certainly quite different from urging them to use, wherever possible, alternatives to prison.

Mr. Spensieri: Mr. Minister, if the Globe and Mail cannot be relied upon, in your own preface to the publication, Options, you say, "Another alternative we have been encouraging is restitution." I presume you mean encouraging the judiciary.

Hon. Mr. Leluk: You can encourage something by making that information available or making people aware. As I say, the prerogative of sentencing is that of the courts and, certainly, we do not exercise any control over how judges sentence inmates. Our job in this ministry is to house them. When they arrive at our door with a warrant of committal, then we have to take them in. We certainly do not tell judges how they should sentence inmates.

I would like to talk about our youth education programs, if I may. I think Mr. Spensieri

touched on the fact that there should be education programs in the institutions. I want to point out that we do have such programs in our institutions. We employ a number of teachers who make available to those inmates who want to avail themselves of this service the opportunity to upgrade their education to the grade nine level, I believe. Is that correct, John?

Mr. Duggan: And up.

Hon. Mr. Leluk: And up. We have a number of excellent vocational programs where we try to teach them some skills they would not otherwise possess that will be of assistance to them once they reintegrate into society to help them find employment. We have these programs in the institutions. They are working very well, and I must say that a number of our inmates do avail themselves of these programs, although not all of them do. It is strictly a voluntary thing.

As far as preventive programs are concerned, Mr. Spensieri, you said more emphasis should be placed on preventive programs. I want to point out to you that we agree with you. I had the pleasure just recently of attending a law day which was held at Kitchener Collegiate Institute, where I spoke to 300-plus students. This law day is something this school has sponsored over the past four years. It invites a judge from the community, and people from the Ministry of Correctional Services and from the police force, to address these students on various matters pertaining to the law and its enforcement. I must say I found a very positive note among these students when I spoke to them and later attended some of the seminars. I was very impressed with their interest in the law, and matters pertaining to the justice policy field.

We also sponsor a number of justice weeks across this province. We have had some excellent ones in the past in the Kitchener area where we try to educate the general public in the justice policy field. Mr. Daniels, do you have anything further you want to say on that, because you have an interest there?

Mr. Daniels: No, actually you said it, Mr. Minister: that we encourage law days, community corrections days and justice weeks all over Ontario in order to elevate public knowledge of crime and knowledge of community corrections.

5 p.m.

Hon. Mr. Leluk: I think, Mr. Spensieri, that pretty well covers the questions you raised personally. I would like to deal with Mr. Breagh's questions at this point.

He mentioned that women were at the bottom of the heap in this ministry. He suggested that possibly our ministry should be providing financial assistance for hostels for battered women. I would point out that we have a limited statutory authority in this ministry to fund such hostels. These are not people in our care. I want to say, however, that we have provided a service to such hostels in the past. For example, we have Interim Place in Mississauga. I had the pleasure of being there for the official opening not too long ago with Mr. DeGrandis, the superintendent from the Mimico Correctional Centre.

The inmates from Mimico have spent considerable time working there, cleaning up and repainting the facility. I think the value of the services provided would be in the neighbourhood of \$10,000. So, in turn, it may not be a direct financial funding or gift, but it is a gift in kind through a service, much needed, which would not be provided because the funds are not there. We also are providing a maintenance program to this particular facility on a weekly basis. So we are being of assistance, although we are limited under statutory authority in providing direct funding.

Mr. Breagh addressed the overcrowding situation. He talked about the cyclical problem. Certainly, I have talked about some of the reasons we have this problem. It is cyclical, and there are a number of reasons why we have overcrowding. My staff and I are very aware of the problem and have been addressing it. I think we have come to grips with it, and we are looking down the road, and there is a possibility we may have to build another facility. You said earlier if you had your way there would be no jails at all and no correctional institutions, but there are those, unfortunately in our society who, having committed an offence, have to be incarcerated.

It should be pointed out here that the correctional officers we have in our employ are professional people. You mentioned the stress and strain overcrowding creates. It does place a certain amount of strain on our officers, but they have done an excellent job under somewhat difficult circumstances in carrying out their duties. I am very appreciative of that as the minister.

We do not feel, however, that the security of our facilities is in jeopardy as a result of this overcrowding. I know some of the news reports recently in the Toronto papers said the security at the Toronto Jail was threatened because of

the overcrowding situation. We have, I believe, 161 uniformed staff at that particular facility. John, how many of those are correctional officers? Is it 141?

Mr. Duggan: It is 144, They are CO2 staff, that is line staff.

Hon. Mr. Leluk: So all we do have, as I say, is an overcrowding situation. We do not feel the security of the facility is in jeopardy. I would like to point out one thing regarding overcrowded conditions, that the number of reported assaults by our inmates on other inmates is sometimes considered a barometer of the tension within an institution. The number of such assaults in Metro institutions is actually down considerably over the past year, which would indicate that the staff are doing an excellent job in terms of supervision.

John, is there anything you would like to add to that?

Mr. Duggan: No, sir, that does convey the situation. The number of assaults of inmate upon inmate, and inmate upon staff, is down in all our institutions.

Mr. Breagh: I have not heard anybody deny yet that you are operating, in the Toronto facilities at any rate, at something in the order of more than 30 per cent over the numbers the institutions were designed to hold. Is that right?

Hon. Mr. Leluk: That is correct. In some cases it would be 30 per cent, Mr. Breagh, by which the actual capacity has exceeded the design capacity. What we are doing now with Mimico Correctional Centre is we are going to take that pressure off those institutions. In the short term, we are going to be able to place 150 additional inmates, who will be selected from the other Toronto institutions. That should relieve the immediate pressure on the other three.

You also raised the question about our so-called "lobbying" of judges about the sentencing, and I want to point out again that we do not undertake to lobby judges. We have been invited to attend their sentencing seminars, which we have done in the past. My predecessor in this ministry did, and I did this year. That is mainly at their request and to make them aware of alternatives to incarceration.

You raised a question about the recent comment in the Ottawa Citizen, the Ottawa newspaper, on the duplication of services in the community service order program. I believe there was an inaccuracy in that article in that the two programs are not identical. The pro-

gram is not a community service order program, but a social work service to the defence counsel. It is a legal aid project. I might add that our staff have looked at our present CSO program there, and we will be adding some additional funding for this program in Ottawa, to increase the manpower they need. But there is no duplication of services there, because they are not one and the same program. I just want to clarify that for you.

Mr. Breagh: You are saying that Deputy Police Chief Tom Flanagan, the director on the board of the community service order program, is wrong?

Hon. Mr. Leluk: Yes. I am saying that obviously there is some confusion there.

Mr. Breagh: It does not make you feel too good when the people who are running the program do not know what it is about.

Hon. Mr. Leluk: I am just trying to clarify for you that there is no duplication of services.

You mentioned something about the federal correctional institutional programs, the work programs on the farms, and some of the difficulties these people have experienced. We have had no such problems with our inmates in getting them out to work in our self-sufficiency programs. We do not experience the same difficulties being experienced in the federal system.

You raised the question of privatization, and I am just trying to recall the context. Was it to do with food services in our correctional centres or institutions?

Mr. Breagh: I was trying to get —

Hon. Mr. Leluk: You were talking about the companies, that's right. You did not agree with the fact that private companies utilize inmate labour in our institutions. Is that correct? I want to make sure I understood your question.

I want to point out that we have a number of these cottage industries, one at Maplehurst, and we have the beef abattoir up at Guelph Correctional Centre. These companies lease space from the ministry. They do not go into these institutions without cost to themselves.

5:10 p.m.

At Guelph, for example, a rent is paid on the space. This is based on a total cost recovery, that is, capital amortization and depreciation. Believing in the work ethic, it gives the inmates an opportunity to develop some good work habits. They get paid a decent wage at the abattoir. They are able to learn a particular

skill, or trade. Many of those inmates, once they have served their time, have been rehired and are working there as a member of our society because it is not just inmates who are employed there. We have a number of people from outside the institution who are employed there on a daily basis.

We are trying to integrate these people into society and help them rehabilitate. Certainly, I do not think you would argue with the fact that we try to provide them with an opportunity through some of our programs in helping them to gain some work habits, some basic skills, to help them in that regard. I just want to point out that these people, in some cases, are paid for the time they put in.

The salaries that are earned under the temporary absence program go towards paying for their stay in the institution. Some of that money goes to provide for their dependants, their families, some goes towards taxes, and whatever is left is put away for them until they are released and is given to them upon release.

Mr. Chairman: Excuse me, Mr. Minister, if I might interject.

Hon. Mr. Leluk: Are we over time?

Mr. Chairman: Yes, we are, and we have another item, hot on the heels of these estimates. Mr. Breagh did ask to reserve six minutes for Mr. Samis. I ask us all to keep our eye on the clock, if we might please.

Hon. Mr. Leluk: I have tried to address most of your questions, Mr. Breagh; I may have missed one or two. Did you want to proceed with Mr. Samis's question?

Mr. Chairman: Yes. That is fine. Mr. Samis, please.

Mr. Samis: I thank Mr. Breagh for his magnanimity, and for your consideration, Mr. Chairman. I will be very brief because I realize you have other business pending. I have one item I would like to raise with the minister. It is the question of the institution in my riding of Cornwall, the institution that predates the accession of Queen Victoria to the throne of England, the Cornwall Jail built in 1832. Once again, we had a public inspection panel report. Once again, the basic conclusion of the report was that the jail ought to be closed and a new facility built.

Since I was elected, in six out of the seven years the inspection panel has come to the same conclusion. The basic question I would like to ask the minister is what the hell are you going to do about that place? Everybody says it should

be turned into a museum. You have replaced all sorts of other institutions around the province of much newer vintage than that one. Yet we do not get any commitment or any indication from your ministry of what is being done to replace that outdated facility.

I take this opportunity to ask the minister again, first, what are your priorities in eastern Ontario vis-à-vis the united counties, and second, what is going to be done about this institution beyond the usual Band-Aid patch-work job from year to year?

Hon. Mr. Leluk: Mr. Samis, that question was raised earlier by yourself in the House. At that time, I pointed out that we have, in this ministry, closed or renovated 20 facilities in the past 10 years, five of which are located in eastern Ontario.

Mr. Samis: All of which are of a more recent vintage than the Cornwall one.

Hon. Mr. Leluk: Again, it comes down to a question of available funds. We have a number of older facilities which we have kept up through the innovativeness of some of our superintendents who, through utilizing inmate labour, have continually done certain renovations with funding from the ministry. Certainly, we have tried to upgrade some of these older institutions from year to year. We have also closed a number in the past 10 years, as I mentioned.

The problem is the funds just are not there to build a new facility in Cornwall. We are hoping to open a community resource centre to take some of the pressure off the institution if there is overcrowding there. But the money is not there to build a new jail.

Mr. Samis: Let me ask the minister what his long-range plans are for that facility. Do you have any long-range plans to close it and replace it with a more up-to-date facility? I emphasize that of the 10 facilities you have closed in the last few years around the province, every one of them is of a more recent vintage than that one. Yet, I still do not hear any commitment, even if it is not short-term, to replacing that facility.

Hon. Mr. Leluk: As I stated in the House when that question was asked, Mr. Samis, I said in the immediate or in the short term I do not see us being able to replace that facility.

Mr. Samis: How about beyond the short term, have you any priorities? Where does this fit in with them?

Hon. Mr. Leluk: We have some priorities but

I do not believe the Cornwall Jail is high on that priority list. It is on the list but it is not in the top six, Mr. Samis.

Mr. Samis: I realize time is a problem. What ranks ahead of the Cornwall Jail then, in terms of your priorities, in terms of capital spending?

Hon. Mr. Leluk: Sault Ste. Marie, Peterborough, which is another older facility, much of the same vintage as—

Mr. Samis: Nowhere near as old as ours, 1832.

Mr. Conway: Pre-Victorian. God save the Queen.

Hon. Mr. Leluk: I think, as has been pointed out, the immediate problems we are addressing are the overcrowding we have in some of our urban areas like the Toronto-Hamilton corridor. What we are doing now with available funds is upgrading security at Mimico Correctional Centre to allow them to take an additional 150 selected inmates from the three Toronto institutions to relieve some of the overcrowding.

Mr. Samis: I do not want to exceed my time, but I will make one final point. If you look at statistics in this fiscal year on the Cornwall Jail, as I did two weeks ago, it has been overcrowded I think 50 per cent of the month, on a monthly scale. It is not just the problem of an outdated facility, there is a problem of overcrowding as well. I again ask, in view of the age of that institution, plus L'Original which is actually older, why you are neglecting those two institutions in eastern Ontario and giving priority to other institutions in the province outside of Metro Toronto?

Hon. Mr. Leluk: First, there is nothing wrong with L'Original at all. I do not think—

Mr. Samis: That is not what other people say.

Hon. Mr. Leluk: I do not think your statement is accurate when you say we are neglecting. We are not neglecting. The Cornwall Jail is on our priorities list but it is not within the top six. As I pointed out earlier, we are opening a community resource centre in Cornwall which should relieve the overcrowding situation which you are complaining about.

I have a position paper here on that centre for Cornwall. There is an incorporated board of directors, consisting of some prominent com-

munity members, which has placed an offer to purchase a dwelling in Cornwall. It has already been zoned for use as a boarding house.

Mr. Samis: It still does not deal with the basic problem.

Hon. Mr. Leluk: It should look after the problem of overcrowding.

Mr. Samis: It does not deal with the problem of an outdated facility.

Hon. Mr. Leluk: We have several outdated facilities. I point out to you that the moneys are not there to close all these facilities or to rebuild them. We are talking about astronomical costs and if you want us to go—

Mr. Samis: Astronomical?

Hon. Mr. Leluk: Yes.

Mr. Samis: Oh, come on.

Hon. Mr. Leluk: I want to point out, as I did in the House when you first asked me that question, to build a maximum security facility in this province will cost \$100,000 per bed. Is that correct, John? If we are looking at a facility for housing say 25 or 30 inmates, we are looking at a very expensive proposition.

Mr. Samis: This one has a capacity of 21 or 22 beds.

5:20 p.m.

Hon. Mr. Leluk: There has been some money put into that jail. We realize it is an old facility. I would like to be able to say to you here today we will close it and build a new one tomorrow, but it is just not feasible. It would be less than honest for me to say that to this committee.

Mr. Chairman: Gentlemen, there being no further questions and the time having run out, we shall commence with the vote.

Vote 1601 agreed to.

Votes 1602 and 1603 agreed to.

Vote 1602, supplementary, agreed to.

Mr. Chairman: Thank you, gentlemen, that completes the estimates. I thank the members of the corrections staff on behalf of the committee for your courtesy today. Regardless of Mr. Breaugh's comments, Mimico looked very good to me.

Hon. Mr. Leluk: Would the committee members wait? I would like to leave you a small memento of our trip to Mimico today. These are manufactured at our institutions at Maplehurst. They wanted each of the members of the committee to have one. I will pass them out.

The committee moved to other business at 5:23 p.m.

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Conway, S. G. (Renfrew North L)
Leluk, Hon. N. G.; Minister of Correctional Services (York West PC)
Reid, T. P. (Rainy River L-Lab.)
Samis, G. R. (Cornwall NDP)
Spensieri, M. A. (Yorkview L)
Treleaven, R. L.; Chairman (Oxford PC)

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, December 17, 1981

The committee met at 3:55 p.m. in room No. 151.

After other business:

4:20 p.m.

SUPPLEMENTARY ESTIMATES, OFFICE OF THE ASSEMBLY

On vote 1001, Office of the Assembly program; item 5, sessional requirements:

Mr. Chairman: Gentlemen, can we get down to financial matters? We have to deal with the supplementary estimates of this committee. We have badly overspent ourselves on Bill 68, on advertising, accommodation and so on; and we have to provide for Bills 6 and 125 that are coming up this January. The clerk is distributing a supplementary estimate for us. When you have looked at it, may I have your comments?

Mr. Williams: I think we have them mixed. I see one page dealing with the standing committee on administration of justice and the other one with the standing committee on procedural affairs.

Mr. Chairman: Sorry, the clerk advises me the word processor fouled up. These are mechanical typographical errors.

Mr. Williams: Which one are we in?

Mr. Chairman: Would you change that to the

standing committee on administration of justice on the second page?

Mr. Renwick: Are you sure that's right and we do not have the procedural affairs one?

Mr. Chairman: No, with Bills 68 and 125.

Mr. Williams: These figures are right, are they?

Mr. Chairman: Gentlemen, on Bill 68, you will notice there was additional time, accommodation and transportation. We simply did not have a large enough budget the first time. We did not budget to sit for that length of time—or for it at all. So we have those per diem transportation and accommodation costs for those two bills.

Mr. Williams: All these charges are supplementary to the ones that were originally approved?

Mr. Chairman: That is correct. You will recall at the time I stated that since we could not totally anticipate, we could come in with supplementaries.

Vote 1001, item 5, agreed to.

Mr. Chairman: Shall I report this to the Board of Internal Economy?

Agreed to.

The committee moved to other business at 4:27 p.m.

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